

2013/882

REPORT TO GENERAL MANAGER
COUNCIL MEETING
17 SEPTEMBER 2013

FROM SENIOR PLANNER (GLENN)

DATE 3 SEPTEMBER 2013

ON DEVELOPMENT APPLICATION
1502 FOREST ROAD, ORANGE
SUBDIVISION (TWO LOTS)

PR4113 - IC11/7791

Application Lodged	15 June 2011
Development Application No	DA 197/2011(1)
Plan No/s	Unregistered subdivision plan by surveyor Leslie John Tooby dated 4/10/06 (1 sheet)
Applicant	NSW Land and Housing Corporation Locked Bag 4009 ASHFIELD NSW 2131
Owner/s	Bloomfield Hospital C/- WLHD, Assets & Facilities Ward 12 Bloomfield Campus, Forest Road ORANGE NSW 2800
Land Description	Lot 501 DP 1175440 - 1502 Forest Road, Orange
Proposed Land Use	Subdivision (two lots)
Value of Proposed Development	\$0.00
Provisions of LEP 2000 (amended)	Zone 1(a) General Farming / part Zone 7 Water Supply Catchment (LEP 2011 zoning not relevant)
Details of Advertisement of Project	Amended proposal advertised and notified 1 December 2012 to 28 January 2013
Recommendation	Approval



1502 FOREST ROAD, ORANGE

3 September 2013

EXECUTIVE SUMMARY

Council's consent is sought to subdivide land described as Lot 501 DP 1175440 so as to create a development lot relating to a Group Homes proposal that is to be determined by the Joint Regional Planning Panel. A copy of this associated application is appended to the business paper for noting by Council.

The subject application was lodged in June 2011 and has been delayed due to the need to obtain co-approvals from both NSW Heritage and the NSW Rural Fire Service. The subdivision relates to a major Group Homes proposal submitted under another development application (DA 326/2011), that in turn has significant adverse effect on protected vegetation on the site (a newly-listed Black Sallee Endangered Ecological Community (EEC)). This necessitated a Species Impact Statement (SIS) and concurrence from the Office of Environmental Heritage.

The application is also Crown Development, which prevents Council from refusing the development application or imposing conditions except with the agreement of the proponent or the Minister. This Crown development restriction does not apply to the OEH concurrence role or the Integrated Development Assessments that have been undertaken.

The application has been amended to increase the size of the allotment from 2ha to approximately 12.9 ha, to include offset areas that are required by the OEH concurrence determination of DA 326/2011(1). OEH concurrence was required for DA 326/2011(1), due to the failure of the application to meet the requirements of section 5A of the *Environmental Planning and Assessment Act*.

The proposed development is Integrated Development by reason of the need to seek approval under the *Heritage Act* and also by reason for the need to obtain a Bushfire Safety Assessment (BSA) under the *Rural Fires Act*. These have been addressed and the necessary co-approvals obtained.

Issues of note for this application relate to obtaining satisfactory vehicular access and also satisfactory access to water and sewer services. The existing roads, sewer lines and water lines are not Council managed assets. The attached Notice of Approval contains conditions requiring the applicant to obtain owners consent for the permission to connect to services and to provide a right of carriageway to Forest Road.

FINANCIAL IMPLICATIONS

There are no expected financial implications from adopting the recommendation in this report.

POLICY/GOVERNANCE IMPLICATIONS

There are no expected policy or governance implications from adopting the recommendation in this report.

RECOMMENDATION

That Council grants consent to development application DA 197/2011(1) for *Subdivision (two lots)* at Lot 501 DP 1175440 - 1502 Forest Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

1502 FOREST ROAD, ORANGE

3 September 2013

THE APPLICATION

Council's consent is sought for a two lot Subdivision at 1502 Forest Road. The property is described as Lot 501 DP 1175440. The land forms part of the broader historically significant Bloomfield Hospital precinct.

THE PROPOSAL

The proposal involves a subdivision to create an additional lot, which in its final amended form is a 12.9ha parcel. The proposed lot will relate to a separate development application (DA 326/2011(1)) which seeks approval for a Group Home.

BLOOMFIELD MASTER PLAN

Council has been liaising with Health Infrastructure over the past few years regarding the need for a master plan to be developed for the Bloomfield Hospital precinct to adequately plan for the provision of services including water, sewer, roads, access points and parking for both existing facilities and new developments such as that proposed in two applications referred to in this report.

Council has not yet been advised that the master plan has been formally adopted.

MATTERS FOR CONSIDERATION

Section 79C of the Environmental Planning and Assessment Act 1979 requires Council to consider various matters, of which those pertaining to the application are listed below.

Section 5A – Assessment of Significance

Section 5A of the Act contains the relevant provisions for the assessment of biodiversity issues for all applications and, whilst called up by Section 79C, does have its own assessment processes and standards to take into account. Council is prevented from granting approval for those applications where the proposed development cannot satisfy the seven part test (known as the assessment of significance).

The matters for consideration under section 5A include a range of matters that must be considered. In assessing these matters, Council is required to adopt a conservative approach to its determination of the biodiversity value. A lack of information, should not generally be taken as a lack of significance (Council cannot adopt the approach "there is no information provided, therefore we can assume no adverse effect"). The onus of proof rests with applicants to show there is little or no significance or that satisfactory amelioration offsets, harm minimisation or other approved or recognised conservation strategies can be adopted or implemented to achieve satisfactory outcomes and, most importantly, avoid significant adverse effects on the biodiversity values of a locality. Defining "locality" can be difficult but is usually based on the principals of connectivity and effective range of a given species or system under assessment. Essentially, what range is needed for that species or system to remain viable. The conservation assessment also requires that such (cont) viability be done on the basis of local viability, not a species wide viability.

1502 FOREST ROAD, ORANGE

3 September 2013

Section 5A – Assessment of Significance (cont)

Whilst the onus of providing data rests with the applicant, the actual assessment of significance is undertaken by Council. Council is open to seeking advice in its assessments from whatever sources it feels are appropriate, including other government agencies or the applicant or whatever scientific data it believes is relevant. However, its assessment must be undertaken in accordance with the relevant OEH guidelines; and it must take into account all the matters listed in the seven part test.

Section 5A also calls up relevant guidelines in force, which are generally those guidelines promulgated by the Office Of Environmental Heritage (OEH). These assessment guidelines provide information on protected habitats (EECs and wetlands/riparian systems generally), endangered and threatened species, the threats posed on these matters (Key Threatening Processes (KTPs)), and accepted amelioration, harm minimisation recovery plans and management strategies that can be accepted in the assessments. Under the guidelines, secondary effects are a valid matter for consideration. This is important in this case. Subdivision, of itself, poses no direct threat, however the secondary effects arising from a proposed subdivision can be included in the assessment, particularly as fragmentation and secondary clearing are both identified as KTPs for many ecosystems.

In this case, the initial assessment by the applicant was incorrect, because it failed to incorporate a new EEC listing in the OEH guidelines. The submission was clearly unaware of a new listing gazetted by the Scientific Committee advising the Minister. The site is best identified as "Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland", which was accepted as a threatened EEC in April 2011. The assessment lodged with the application did not assess the application against this new conservation listing, and assessed the woodland against the criteria applicable to more well-known white/yellow box gum grassy woodlands (BGGW) and from that advised Council that no significant or endangered vegetation existed on the site. The submission made by the applicant did not include any significant survey or capture work on which to assess the likelihood of threatened rare or endangered specimens on the site.

Council early in the process sought advice from OEH Biodiversity Unit. OEH advised that the site was consistent with the new EEC listing. It assessed the significance of the site as moderate (it does have a significant weed infestation problem, particularly in the understorey). OEH concurred that it was not possible for Council to satisfactorily complete the assessment of significance on the basis of the information at that time available. OEH also advised that the site was a known nesting and feeding area for Superb Parrots. Council at about this time undertook some survey trapping and observation on nearby bushland areas under Council management and counted 40 gliders on the site, including 6 of a species listed as threatened. At that time, it became quite clear that the bushland on this site was significant and given that the overall program of works involved several KTPs (most important of which for this proposed subdivision was the potential fragmentation of the bushland, but as part of the overall program also threats by clearing), Council could not resolve the seven part assessment of significance.

The application as submitted did not offer any counterbalancing to these adverse effects. Council, at that point, was in the position of being unable to complete the seven part test and therefore unable to approve the application. Council, at that point, was in the unenviable position of having a DA that it could not resolve. The applicant eventually elected to undertake a Species Impact Assessment for the companion DA (DA 326/2011(1)) which effectively gave a concurrence role to resolving the biodiversity issue and lifted Council's obligation pertaining to the assessment of significance for that DA (for DA 326/2011(1), Council was no longer required to complete its seven part test). A requirement to complete a seven part test for the subject application (DA 197/2011(1)) did remain.

1502 FOREST ROAD, ORANGE

3 September 2013

Section 5A – Assessment of Significance (cont)

In summary, after the completion of the SIS assessment OEH have issued their terms of concurrence for DA 326/2011(1). A key finding of that concurrence is the provision of the remainder of the site as an offset area, necessitating a minimum lot size of 12.9 ha (original lot size was 2.9ha), with the additional area subject to ongoing management and conservation. As the OEH determination has a direct impact on the subdivision application (because it requires a minimum lot size), it is considered that in order for the seven part test for DA 197/2011(1) to be satisfactorily completed, the OEH concurrence requirements should also be applied to the subdivision. The applicant has addressed this by submission of an amended plan that increases the size of the proposed lot to 12.9 ha.

Integrated Development

The proposed development is classified as Integrated Development pursuant to section 90 of the *Environmental Planning and Assessment Act* (EP&A Act). Integrated Development means that co-approval is required from another government agency because the site and/or the nature of the proposed development is affected by legislation specified under section 90 of the EP&A Act.

In this case, the proposed development is Integrated Development because the Bloomfield Hospital Group is listed on the State Heritage Register as an item of state significance. Further, the development site is classified as bushfire prone and the type of development requires a bushfire safety authority under the *Rural Fires Act*.

Accordingly, a non-indigenous heritage assessment was undertaken by the applicant in order to assess the impacts of the proposed development on the local area and the likelihood of encountering significant items during construction. It was also necessary for the applicant to undertake a comprehensive hazard management plan for the bushfire issue.

Heritage Act – Integrated Development

The entire Bloomfield site is listed as a State significant heritage item; identified as such for a number of reasons including the landscape setting and natural bushland that exists on the site which provides considerable natural amenity to the function as a hospital. This triggers a need for co-approval, pursuant to the provisions of the Act.

At its meeting on 5 October 2011, the NSW Heritage Council Approvals Committee considered the above integrated development application and declined to grant approval, until a comprehensive conservation management plan was completed and certain other detail changes to the proposed development were undertaken.

These requirements were not completed and submitted until April 2013, with Heritage NSW issuing its co-approval conditions in July 2013.

Bushfire Prone Land – Integrated Development

The matter was referred to the Rural Fire Service (RFS) as Integrated Development, as a bushfire safety authority is required for subdivision located within a bushfire hazard management area. The RFS provided a response on 20 December 2012, providing co-approval conditions that are included in the attached notice of determination.

1502 FOREST ROAD, ORANGE

3 September 2013

Aboriginal Heritage

Late in the process, the applicant advised that they had undertaken an Aboriginal heritage Impact Management Statement (AHIMS), that indicated the presence of some aboriginal heritage on the site. This in turn triggers a need for a permit to destroy under section 90 of the *National Parks and Wildlife Act 1974* (NPWS Act 1974). This can be sought as an Integrated Development Approval, however to reduce time delays, the applicant advised they do not wish to exercise that right and would instead seek their permits under separate cover. This is their prerogative; however, before any work can take place on the site the applicant will need to provide or submit evidence of a permit to destroy pursuant to section 90 of the NPWS Act 1974.

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

The subject development application was lodged with Orange City Council in June 2011. Given that the application was lodged with Council well before even the exhibition of LEP 2011 as a draft environmental planning instrument, the Council will be required by virtue of Clause 1.8A (Savings Provisions relating to Development Applications) contained within Orange LEP 2011 to determine the application pursuant to the provisions of Orange Local Environmental Plan 2000. An assessment of the development against both the requirements of both Orange LEP 2000 and Orange LEP 2011 is provided below.

ORANGE LOCAL ENVIRONMENTAL PLAN 2011**Part 1 - Preliminary**

This part of the plan is largely administrative in nature and has minimal implications for the proposal.

Clause 1.2 - Aims of Plan

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

- (a) *to encourage development which complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*
- (b) *to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development,*
- (c) *to conserve and enhance the water resources on which Orange depends, particularly water supply catchments,*
- (d) *to manage rural land as an environmental resource that provides economic and social benefits for Orange,*
- (f) *to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The application is considered to be consistent with the above described aims of the plan.

1502 FOREST ROAD, ORANGE

3 September 2013

Clause 1.6 - Consent Authority

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

Clause 1.8A (Savings Provisions relating to Development Applications)

Clause 1.8A states:

if a development application has been made before the commencement of this plan in relation to land to which this Plan applies and the application has not been finally determined before the commencement, the application must be determined as if the Plan had not commenced.

The subject development application was lodged with Orange City Council in June 2011. Given that this development application was lodged with Council prior to 24 February 2012, the consent authority will be required to determine the application pursuant to the provisions of Orange Local Environmental Plan 2000. An assessment of the proposal against the requirements of LEP 2000 will be provided in the body of this report under the heading Orange LEP 2000 (amended).

An assessment of how the development relates to other specific clauses contained within Orange LEP 2011 is provided below.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

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

- covenants imposed or required by Council
- prescribed instruments under Section 183A of the *Crown Lands Act 1989*
- any conservation agreement under the *National Parks and Wildlife Act 1974*
- any trust agreement under the *Nature Conservation Trust Act 2001*
- any property vegetation plan under the *Native Vegetation Act 2003*
- any biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*
- any planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*

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

1502 FOREST ROAD, ORANGE

3 September 2013

Mapping

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

Land Zoning Map:	Land is part zoned R1 General Residential, part zoned E4 Environmental Living and Part zoned E2 Environmental Conservation
Lot Size Map:	1000m ² minimum lot size for that part of the site zoned R1 General Residential. 100ha minimum lot size for that part of the site zoned E2 Environmental Conservation and E4 Environmental Living.
Heritage Map:	Land forms part of the historic Bloomfield Hospital precinct which is listed as a heritage item.
Height of Buildings Map:	No building height limit.
Floor Space Ratio Map:	No floor space limit.
Terrestrial Biodiversity Map:	Part high biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Ground water vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Located adjacent to 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 of relevance are addressed in detail in the body of this report.

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

The subject site is part zoned R1 – General Residential, part E4 Environmental Living and part zoned E2 Environmental Management. The development is defined as subdivision of land under the *Environmental Planning and Assessment Act 1979*. Pursuant to clause 4B of the *Environmental Planning and Assessment Act 1979* subdivision of land means:

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

The proposed development is made permissible under cl 2.6 of OLEP 2011 with the consent of Council.

1502 FOREST ROAD, ORANGE

3 September 2013

Clause 2.3 of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011.

The objectives for land zoned R1 – General Residential are as follows:

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

The proposed subdivision is not inconsistent with the above described objectives of the zone.

The objectives for land zoned E4 – Environmental Living are as follows:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for housing and complementary uses in an area with a predominantly natural setting.

The proposed subdivision is not inconsistent with the above described objectives of the zone.

The objectives for land zoned E2 – Environmental Conservation are as follows:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To ensure development along the Southern Link Road has alternative access.

The proposed subdivision is not inconsistent with the above described objectives of the zone.

Clause 2.6 - Subdivision - Consent Requirements

Application has been made for the subdivision of the subject land. Clause 2.6 of OLEP 2011 permits the subdivision of the subject land only with development consent.

Part 3 - Exempt and Complying Development

The application is not exempt or Complying Development. Pursuant to Clause 2.6 the application is seeking development consent.

1502 FOREST ROAD, ORANGE
3 September 2013

Part 4 - Principal Development Standards

Clause 4.1 - Minimum Subdivision Lot Size

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

In relation to this site, the map indicates a minimum lot size for that part of the site zoned R1 General Residential of 1000m² and a 100ha minimum lot size for that part of the site zoned E2 Environmental Conservation and E4 Environmental Living. Whilst the proposed subdivision would comply with the minimum allotment size provisions relating to that part of the site zoned R1 General Residential it would not comply with the minimum area requirements relating to land zoned E2 Environmental Conservation or E4 Environmental Living. Notwithstanding this position, the development remains permissible with consent pursuant to the provisions of Orange LEP 2000 for which this application is legally required to be determined against given the savings and transitional provisions relating to development applications lodged but not determined at the time in which Orange LEP 2011 was formally gazetted.

Clause 5.10 - Heritage Conservation

The subject land forms part of the historic Bloomfield Hospital precinct which is listed as an item of environmental heritage under the provisions of Orange LEP 2011 ("the Plan"). Pursuant to clause 5.10(2) consent is required for subdividing land on which a heritage item is located or that is within a heritage conservation area, or

Pursuant to Clause 5.10(4) and (5), the consent authority is required to consider the potential impact that the development may have on the heritage item.

Heritage matters have been assessed in detail below under the heading **Chapter 12 (Clauses 74-81) - Heritage**

Part 6 - Urban Release Area

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

Part 7 - Additional Local Provisions

7.1 - Earthworks

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

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*
- (b) *the effect of the development on the likely future use or redevelopment of the land*
- (c) *the quality of the fill or the soil to be excavated, or both*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties*
- (e) *the source of any fill material and the destination of any excavated material*
- (f) *the likelihood of disturbing relics*

1502 FOREST ROAD, ORANGE

3 September 2013

7.1 – Earthworks (cont)

- (g) *the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area*
- (h) *any measures proposed to minimise or mitigate the impacts referred to in paragraph (g).*

The earthworks proposed in the application are limited to the provision of services to support the subject development. The extent of disruption to the drainage of the site is considered to be minor and will not detrimentally affect adjoining properties or receiving waterways.

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

The site may contain Aboriginal, European or Archaeological relics. A condition has been imposed to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities and the proponent required to seek relevant permits to either destroy or relocate the findings.

7.3 - Stormwater Management

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

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

Council's Technical Services Department have recommended conditions of consent addressing matters in relation to stormwater management.

7.4 - Terrestrial Biodiversity

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

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

1502 FOREST ROAD, ORANGE

3 September 2013

7.4 - Terrestrial Biodiversity (cont)

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

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

The proposal is located on land that has been identified on the Terrestrial Biodiversity Map as partially comprising "High Biodiversity Sensitivity" land. The proposed subdivision of the land will not adversely affect the sensitive area. Additionally, the proposed vehicular access to the development is clear of the sensitive areas.

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

7.5 - Riparian Land and Watercourses

This clause seeks to preserve both water quality and riparian ecological health. The clause applies to land identified as a "Sensitive Waterway" on the Watercourse Map. The subject land adjoins such a waterway and therefore Council must consider whether or not the proposal:

- (a) *is likely to have any adverse impact on the following:*
 - (i) *the water quality and flows within a watercourse*
 - (ii) *aquatic and riparian species, habitats and ecosystems of the watercourse*
 - (iii) *the stability of the bed and banks of the watercourse*
 - (iv) *the free passage of fish and other aquatic organisms within or along the watercourse*
 - (v) *any future rehabilitation of the watercourse and its riparian areas, and*
- (b) *is likely to increase water extraction from the watercourse.*

Additionally Consent may not be granted until Council is satisfied that:

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

While the subject site does adjoin a sensitive waterway, the proposed subdivision will not adversely affect this waterway.

1502 FOREST ROAD, ORANGE

3 September 2013

7.6 - Groundwater Vulnerability

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

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

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

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

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

7.7 - Drinking Water Catchments

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

1502 FOREST ROAD, ORANGE

3 September 2013

7.7 - Drinking Water Catchments (cont)

- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) *the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or*
 - (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

Whilst the subject land is located within the Drinking Water catchment the proposed subdivision will not have an adverse impact.

ORANGE LOCAL ENVIRONMENTAL PLAN 2000 (AMENDED)

The development site is only a portion of the overall Bloomfield Hospital site and is zoned 7 Water Supply Catchment under Orange Local Environmental Plan 2000 (amended) ("the LEP"). The hospital site as a whole is zoned part 1(a) General Farming, part 6 Open Space and Recreation and part 7 Water Supply Catchment under the LEP. The proposed development is defined as a "subdivision" pursuant to clause 4B of the Environmental Planning and Assessment Act.

The objective of zone 7 is to manage development within those rural areas which comprise water supply catchments in a way that conserves and enhances the City's and district's water resources while maintaining the rural function and character of the area generated by productive primary industries and some living opportunities.

The proposed development would have a neutral impact on the City's water supply catchment. The proposed subdivision will lead to development that would provide specialised living opportunities consistent with the general intent of the zone 7 and zone 1(a) objectives.

The objective of zone 6 is to ensure that public and private open space meets a range of recreational needs of residents of the City, and enhances and protects the environment of Orange.

The land on which the proposed subdivision is to occur provides incidental open space to the locality. However, in terms of its usage, it is not considered a core open space area of the City. Subject to conditions (discussed in the report) concerning the provision of replacement landscaping, the proposed development is considered compatible to the zone 6 objectives.

The objective of zone 1 (a) is to provide for an area with an open rural character comprising agriculture, other primary industries and development consistent with a rural location, and which includes some rural living opportunities that do not reduce the potential for productive primary industries.

1502 FOREST ROAD, ORANGE

3 September 2013

Orange Local Environmental Plan 2000 (amended) ((cont))

The proposed development as subdivision, for specialised housing is consistent with this objective, given the long standing usage and ownership of the Bloomfield site for various health care purposes. As such, the potential for the land to provide for productive rural living is at present very low, or non-existent, which would remain unchanged as a result of the proposed development.

With regard to the preservation of open rural character, it is considered that special circumstances exist on this site. The site as a whole retains a semi-rural context, largely through the spacing of buildings, generally low built forms and generous landscaping. Much of the Bloomfield site provides both passive and active recreation space. The proposed development for the new subdivision will retain a low scale development and would maintain a reasonable spacing with surrounding buildings. It would have some reducing effect on the open landscaped character of the locality. There would be some loss of vegetation, outlined in this report, however this can be offset by the incorporation of the remaining remnant and its prudent rehabilitation.

Clause 24 - The Zones

Clause 24 of 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.

These are considered in the report.

Clause 2 - Aims of Plan

The aims of the Plan are as follows:

- (a) to encourage development that complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,
- (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,
- (c) to conserve and enhance the water resources on which Orange depends, particularly water supply catchments,
- (d) to manage rural land as an environmental resource that provides economic and social benefits for Orange,
- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth,
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.

1502 FOREST ROAD, ORANGE

3 September 2013

Orange Local Environmental Plan 2000 (amended) ((cont))

Those matters of relevance have been discussed in the body of this report. The land forms part of the historically significant Bloomfield Hospital site. Whilst Council has not yet received the final version of the master plan for this site, it is considered that the proposed development will not be inconsistent with the aims of the Plan.

Clause 8 - General Considerations for Development

The matters that are of relevance to this proposal are listed and commented upon as follows:

- (a) *the potential of that development to impact on (vi) existing vegetation, native flora and fauna*

The proposed subdivision will not have any significant effect on native flora and fauna. However, the subject lots subsequent development for Group Homes (see DA 326/2011(1)) is likely to have some impact. The development in DA 326/2011(1) will require the removal of 1.9 ha of native vegetation, considered endangered habitat. OEH concurrence was required to remove that vegetation and it is a concurrence requirement of OEH that the remaining remnant vegetation (about 10.7ha) be incorporated into the subdivision plan that is covered in this application (DA 197/2011(1)). It is therefore critical that the proposed subdivision conforms to the requirements of its companion development (as outlined in DA 326/2011(1)) and contain a minimum area of 12.9ha. By way of comment, this demonstrates very neatly how secondary effects in this case, the subdivision) can have critical impacts on biodiversity conservation.

- (c) *the impact on the scenic, landscape or urban character of the area*

The proposed subdivision will not have any effect on the landscape character of the area. Its future development may have some effect, however it is more appropriate to assess these impacts under the companion DA (refer DA 326/2011(1)).

- (f) *any measures necessary to mitigate any of these impacts*

The proposed lot at 12.9ha is, by reason of the greatly increased size of the allotment a satisfactory measure designed to mitigate the biodiversity and landscape issues of future development of the site.

Chapter 12 (Clauses 74-81) - Heritage

The objectives of this part that are relevant to the application are:

- (a) *to conserve the environmental heritage of the City of Orange and*
 (c) *to ensure that development is consistent with the heritage character of the City of Orange*

Council is required to take into account the extent to which the proposed development would have on the heritage significance of the heritage item in question. Council is also required to consider the provisions of any Conservation Management Plan, which in this case is already in existence, having been prepared in 2006 by the Government Architect's Office. In considering these matters Council should take into account all relevant advice and information as is available.

1502 FOREST ROAD, ORANGE

3 September 2013

Chapter 12 (Clauses 74-81) – Heritage (cont)

The subject property is identified as Heritage Item of state significance, and also of local significance in the Orange LEP 2000. This in turn generates a need under the Integrated Development provisions of the Act to seek the co-approval of the NSW Heritage Branch of the Office of Environment and Heritage and for Council to undertake its own assessment under its heritage provisions as well. This has previously been commented on in this report.

Part of the heritage value of the site is its relative homogeneity as a single, unified development. Subdivision poses the risk of detracting from that "oneness" in the design and the purpose of the site, as competing interests and development styles for the site, and competing priorities tend to diminish the significance of the original mental hospital component. Of itself, subdivision poses no threat to heritage value, however breakup of the Bloomfield site will make it difficult to retain a single unified design philosophy compatible to the original hospital development in future years. It is noted that NSW heritage have expressed concerns along these lines in the past, however it is also noted that the subdivision has also been given their co-approval under the Integrated development assessment they have completed.

Council, as the consent authority, is obligated to undertake its assessment in accordance with s79C of the *Environmental Planning and Assessment Act* which includes an assessment against the relevant criteria of the Orange LEP 2000.

In this case, the site is listed as a heritage item that is of both local and state significance. The inclusion of the site on the State Heritage register triggers a need for assessment under the provisions of the *Heritage Act 1977*, which has been undertaken by the NSW Heritage Council, with General Terms Of Approval given by them in their response of July 2013. This response indicates NSW Heritage has granted their approval subject to conditions.

Section 91A(3) of the *Environmental Planning and Assessment Act* provides that "A consent granted by the consent authority must be consistent with the general terms of any approval proposed to be granted by the approval body in relation to the development and of which the consent authority is informed."

The determination by NSW Heritage and the Applicant's Heritage Impact Statement indicate that the proposed development is generally satisfactory with regard to its heritage impacts. To this end, it is considered that matters in relation to heritage have been suitably addressed.

STATE ENVIRONMENTAL PLANNING POLICIES

There are no State Environmental Planning Policies that apply to the subject development.

1502 FOREST ROAD, ORANGE

3 September 2013

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

At the time this application was lodged, there were no draft environmental planning instruments that applied to the subject land or the proposed development. Since that time LEP-2011 was exhibited as a Draft LEP and has since been formally gazetted. Orange LEP 2011 contained a savings and transitional provision to provide guidance for determining those development applications that were formally lodged but were not determined at the time in which Orange LEP 2011 was formally gazetted. Clause 1.8A of LEP-2011 reads as follows:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced."

To this end, the application will required to be determined in accordance with the requirements of Orange LEP 2000.

Notwithstanding the above, Orange Local Environmental Plan 2011 currently has one Draft Amendment that has been the subject of public consultation. The amendment relates to:

- the rezoning of five areas within the LGA for additional residential opportunities
- a rezoning in relation to a small area of industrial land in Leeds Parade
- rezoning of land in the vicinity of Orange airport to facilitate the planned expansion
- changes to schedule 5 including over 200 new heritage items, a new heritage conservation area and a reduction in the Spring Hill heritage conservation area
- changes to the minimum lot size required for dual occupancies in Ploughmans Valley
- rectification of a minor mapping anomaly in Ploughmans Valley for minimum lot sizes
- to reduce the minimum lot size required in rural areas for intensive plant agriculture, and
- introduction of a new clause clarifying that all subdivision of land is (or will be) adequately provisioned with essential services.

This application does not relate to any of the above matters and is not situated on land intended to be rezoned under the draft Amendment to Orange Local Environmental Plan 2011.

1502 FOREST ROAD, ORANGE

3 September 2013

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s79C(1)(a)(iii)**Orange Development Control Plan 2004**

Orange Development Control Plan 2004 ("the DCP") applies to the subject land. In this case, the multiple zonings applicable to the land and the landscaped setting requires an assessment under multiple parts of the DCP. It is considered that the following parts of the DCP have application in the assessment of the proposed development:

Part 2.3 - Vegetation Management

Part 3 - General Considerations

Part 12 - Rural Environment Protection Zone

Part 13 - Heritage

Nominally, Chapter 6 - Rural Development Zones 1(a) and 7 and Chapter 11 – Land used for Open Space and Recreation, are also applicable to the proposed development because of the zonings that apply to the land. However, there are no specific DCP controls that are relevant to this development in any of these zone specific parts of the DCP.

Chapter 2.3 - Vegetation Management

The DCP contains planning outcomes that are required to be addressed in the assessment of matters pertaining to vegetation management. In particular these planning outcomes require Council to assess such matters in accordance with the *Native Vegetation Conservation Act 1997*.

The vegetation on the site is a mixture of introduced and native species. Collectively, the vegetation provides visual amenity and character, and adds significantly to the ambience of the site.

The most comprehensive flora and fauna assessment for vegetation applicable to the whole of the Bloomfield site and its rural surrounds was undertaken in conjunction with the Species Impact Statement that has recently been considered in relation to the two applications in question. In summary, the OEH concurrence requires a 12.9 ha site area for the site and ongoing vegetation management of the site. In general, the conclusions and requirements of OEH are consistent with the DCP.

The proposed subdivision of itself does not pose any threat to the biodiversity of the site. However, it does pose a secondary threat, because of the risks of inappropriate fragmentation and fencing. This was particularly for the 1.9ha subdivision but is less of a problem under the new 12.9 ha subdivision.

The development site is located in an area containing a degraded woodland association of Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland. The site also has a clear association and proximity with the woodlands to the south of the site along Bloomfield Road and the occurrence of individual specimens both within the grounds and on the adjacent golf course. The site and the golf course now contain a mix of these individual remnant trees and plantings of exotic species of trees and shrubs typical of parklands in Orange. The native species and EEC on the development site have a strong connectivity to the remnant woodland located to the south and are highly likely to provide seed bank opportunities, as well as possible nesting and food sources and add generally (and specifically) to the native biodiversity of the region.

1502 FOREST ROAD, ORANGE

3 September 2013

Chapter 2.3 - Vegetation Management (cont)

The SIS and OEH assessment (for DA 326/2011(1)) identify a number of threatened and endangered species likely to utilise this site, however the offset provisions of the application have now been assessed as likely to mitigate the obvious adverse effects that will arise from the redevelopment of the new lot. Expressed in its simplest terms, the proposed subdivision, and its future redevelopment will have adverse effects but the offset area and its rehabilitation will counterbalance those adverse effects.

Bower and Semple (2002) describe eight different associations of significant species associated with the box gum grassy woodland (BGGW) alliance. They don't deal directly with the newly listed EEC, however their research does carry a high degree of relevance in a general manner. They note that on the basalt plateau around Orange can be found an association of Ribbon Gum (*E. viminalis*) and Apple Box (*E. bridgesiana*) and on the Orange plateau Candle Bark (*E. rubida*). The remnants of these associations can be seen around the City (including the Bloomfield site) where many large examples of the larger Ribbon Gums (in particular) have survived on various parklands and around the Bloomfield hospital site.

A number of migratory bird species are shown in the OEH assessment as likely to utilise and depend on the site and the site is considered a significant element of the City's surviving biodiversity. It is considered however that a satisfactory conservation response has been arrived at in the SIS.

With regard to the exotic species, these of course do not add to the native biodiversity; however they do provide significant visual and heritage value to the site. In this case, it is considered that the non-native species are not appropriate, in the landscape plan as they actually pose a significant weed threat to the integrity of the native bushland.

Chapter 3 - General Considerations

The provisions of this part are concerned principally with cumulative impacts of new development. The specific provisions are listed and commented upon as follows:

- *How new development relates to character.*

The proposed development is a subdivision that will have minimal impact on character. It does open the way for further redevelopment, which is assessed in more detail under DA 326/2011(1).

- *Maintaining environmental impacts that are within existing or community level impacts.*

These have been previously commented on and are considered to be generally satisfactory.

- *Water conservation measures are implemented.*

Conditions are included requiring the implementation of an erosion and sediment control plan that is based on current Water Sensitive Urban Design (WSUD) Principals.

1502 FOREST ROAD, ORANGE

3 September 2013

Chapter 12 - Rural Environment Protection Zone

Given that the land forms part of the historic Bloomfield Hospital precinct and is well separated from sensitive agricultural operations, it is considered that the proposed development will not impact upon the viability of surrounding rural lands.

Chapter 13 - Heritage

In addition to being listed on the State heritage register, the subject property is locally listed under the LEP. The 1986 Heritage Study identifies the site as being significant because of the buildings as well as the landscape setting of the grounds themselves. Chapter 13 of the DCP sets out the following planning outcomes with respect to heritage conservation.

- *Development relates the significant features of heritage buildings on or near the site, as reflected in the inventory sheets.*

The subject site is listed as significant for the context of the buildings and what they represented, as much as the architectural merits of the buildings themselves. The landscaped setting in this case is as much a part of the site's heritage value as the buildings themselves. In this case considerable efforts have been made to conserve the more significant elements and remnants of the landscaped setting of the site. This has been considered in greater detail earlier in the report.

- *Development conforms with recognised conservation principles.*

This planning outcome is not relevant in the determination of the subject application.

- *Conservation Management Plans are prepared for development having a significant effect on heritage sites.*

This is considered unnecessary as a CMP already exists for the whole of the site.

SECTION 94 DEVELOPMENT CONTRIBUTIONS

Section 2.6.1 of Orange Development Contributions Plan 2012 states:

The following types of development, or components of development, will be exempted from a requirement to make contributions under this Plan:

Development for the purposes of any form of seniors housing as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that is provided by a social housing provider as defined in that Policy.

This may also apply"

1502 FOREST ROAD, ORANGE

3 September 2013

Section 94 Development Contributions ((cont))

The applicant was requested to clarify as to whether they would be prepared to accept a condition for contributions, and has responded in the following terms:

"ADHC would not be supportive of conditions being imposed that would levy S94 contributions. To date, ADHC has not been subject to the payment of S94 contributions on its state wide group home program, primarily because of 'in-kind' contributions. That is, we are providing a facility to house residents of Orange, with special needs, who are unable to secure accommodation elsewhere in the LGA. Accordingly, given the provision of social infrastructure by ADHC, Council has accordingly not levied for other forms of contributions.

In this instance I would also argue, given the intellectual disabilities of the tenants of the proposed group homes their interaction and or utilisation of council facilities is not comparable to other residents of the community and therefore the nexus between the subject development and increased demand is not so obvious. For example, there will be little increased loadings upon council parking facilities, roads and intersections (tenants cannot operate motor vehicles); little demand will also be placed upon local and district sporting, recreational, cultural and social facilities.

Section 64 Contributions are payable. There are no exemptions available to Crown authorities.

No conditions for s94 contributions are included in the attached notice. Were Council to seek the Minister's agreement for contributions, they have been calculated as follows:

Open Space and Recreation	@ \$4,466.78 x 1 additional lots	4,466.78
Community and Cultural	@ \$761.97 x 1 additional lots	761.97
Roads and Cycleways	@ \$5,520.46 x 1 additional lots	5,520.46
Stormwater Drainage	@ \$427.65 x 1 additional lots	427.65
Plan Preparation & Administration	@ \$335.31 x 1 additional lots	335.31
TOTAL:		\$11,512.17

SECTION 64 - WATER AND SEWER HEADWORKS CHARGES

Section 64 water and sewer headworks charges are applicable to the proposal. Such charges are calculated at the time of release of a Subdivision Certificate for the development. Attached are conditions requiring the payment of the required contributions prior to the issue of a Subdivision Certificate.

PROVISIONS PRESCRIBED BY THE REGULATIONS s79C(1)(a)(iv)**Demolition of a Building (clause 92)**

The proposal does not involve the demolition of a building.

Fire Safety Considerations (clause 93)

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

1502 FOREST ROAD, ORANGE

3 September 2013

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)

The likely impacts of the development have been previously assessed in this report. It is considered that the benefits of the proposed development outweigh the impacts on landscape quality and heritage. Other issues such as traffic and noise have been considered in the assessment of the application.

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

The site is considered suitable for the proposed development

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

The proposed development is defined as "Integrated Development" under the provisions of the LEP. The application was advertised for the prescribed period of 30 days and at the end of that period four submissions had been received principally from the Bloomfield Action Group and its affiliates. The basis of the submissions relate to the potential threats to the natural environment. These issues have been addressed and assessed elsewhere in the report and in the OEH concurrence assessment.

There have been several meetings with the objectors to work through the issues. Submitters remain concerned about the ongoing management of the remnant bushland but are also quite satisfied with the outcome that will see proper management and conservation of a large offset area.

PUBLIC INTEREST s79C(1)(e)

The proposed development is considered to be of some interest to the wider public due to the services that would be provided following the proposed subdivision. There is also considerable interest in preserving the natural and man-made heritage of the site. The impacts of the development have been taken into consideration and satisfactory offset and amelioration worked into the consent. The conservation of the site from a more traditional heritage management is now protected by a heritage management statement (something required by NSW Heritage in their co-approval). The impacts of the development on the surrounding environment are considered to be significant however they can be addressed with conditions. The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines, etc that have not been considered in this assessment.

1502 FOREST ROAD, ORANGE

3 September 2013

COMMENTS

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

Michael Glenn

SENIOR PLANNER

enc

SIGNATURES, SEAL, AND STATEMENTS of intention to dedicate public roads or to create reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

M.G.A. COORDINATES

CLAUSE 35(1)(b) & CLAUSE 6(12) OF THE SURVEYING REGULATION 2006

MARK	EASTING	NORTHING	CLASS	ORDER	METHOD	ORIGIN
PM 78126	694615.151	6311658.611	B	2	FROM SCIMS	SCIMS
PM 25328	695046.879	6312273.960	2A	0	FROM SCIMS	SCIMS
SSM 19124	694455	6311369	U	U	FROM SCIMS	SCIMS
PM 25327	695431.073	6312790.419	B	2	FROM SCIMS	SCIMS

SOURCE: SCIMS 6th SEPTEMBER 2007
COMBINED SCALE FACTOR: 0.999824 ZONE 55

REFERENCE TO CORNERS

CORNER	BEARING	DISTANCE	FROM	ORIGIN
A	111°08'	1.005	RM GI PIPE	ME
B	294°28'	0.480	RM GI PIPE	ME
C	309°47'	1.005	RM GI PIPE	ME
D	127°43'	1.025	RM GI PIPE	ME
E	97°54'	1.0	RM GI PIPE FD	DP 42900
F	5°40'	0.5	RM GI PIPE FD	DP 42900
G	160°51'	1.0	NOW BURIED UNDER FILL	DP 42900
H	335°50'	0.99	RM GI PIPE FD	DP 42900
J	16°39'45"	2.445 SVY	RM DH & WING FD	DP 42900
K	123°04'	0.50	ON CONC PILLAR	DP 42900
L	124°53'	0.5	RM GI PIPE FD	DP 42900
M	126°13'	0.495 SVY	NEW PEG & PEG & RM GI PIPE FD	DP 42900

PLAN:
OF SUBDIVISION OF
LOT 501 DP 1175440

Lengths are in metres. Reduction Ratio 1:4000

LGA: ORANGE

Suburb/Locality: ORANGE

Parish: ORANGE

County: BATHURST

This is sheet 1 of my plan is 1 sheets (delete if applicable)

a surveyor registered under the Surveying Act 2002 hereby certifies that the Survey represented in this plan is accurate, has been made in accordance with the Surveying Regulation 2006 and was completed on _____
The survey relates to _____

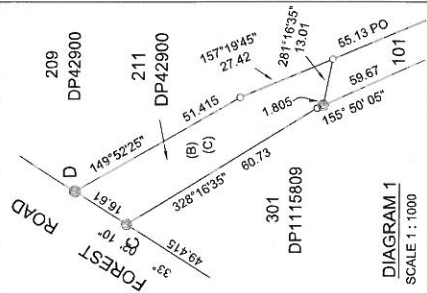
Here specify the land actually surveyed, or specify any land shown in the plan that is not the subject of the survey.

Signature _____ Date _____
Surveyor registered under the Surveying Act 2002
Dulum lim. "X" = "y"

Plots used in preparation of Survey / Easement:
DP 720596
DP 42900

UNREGISTERED PLAN
BY SURVEYOR LESLIE JOHN TOOBY
DATED 4/10/06

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

DIAGRAM 1
SCALE 1:1000

Department of Lands Approval

I, _____ (full name) in approving this plan, certify that all necessary approvals in regard to the creation of the land shown herein have been given.

Signature _____
Date _____
File Number _____
Office _____

Subdivision Certificate

I certify that the provisions of s.189 of the Environmental Planning and Assessment Act 1979 have been complied in relation to the proposed SUBDIVISION _____

[Insert subdivision or new road]

Subdivision of land (road)

General Authority _____

Date of endorsement _____

Accreditation No. _____

Subdivision Certificate No. _____

File No. _____

* Delete whichever is applicable



ORANGE CITY COUNCIL

Development Application No **DA 197/2011(1)**

NA13/616

Container PR4113

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Development Application

Applicant Name: NSW Land and Housing Corporation
Applicant Address: Locked Bag 4009
ASHFIELD NSW 2131
Owner's Name: Bloomfield Hospital
Land to Be Developed: Lot 230 DP 720596 - 1502 Forest Road, Orange
Proposed Development: Subdivision (two lots)

Building Code of Australia building classification:

Not applicable

Determination

Made On: 1 October 2013
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 2 October 2013
Consent to Lapse On: 2 October 2018

Terms of Approval

The reasons for the imposition of conditions are:

- (1) To ensure compliance with relevant statutory requirements.
- (2) To provide adequate public health and safety measures.
- (3) To ensure a quality urban design for the development which complements the surrounding environment.
- (4) To maintain neighbourhood amenity and character.
- (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 must be carried out in accordance with:
 - (a) **Unregistered subdivision plan by surveyor Leslie John Tooby dated 4/10/06 (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.

Conditions (cont)

PRESCRIBED CONDITIONS

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (3) 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 commencement of work.
- (4) A water and soil erosion control plan is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the commencement of work. 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.
- (5) Prior to the commencement of works the applicant shall obtain written consent from the NSW Department of Health for the granting of a right of access from proposed Lot 600 to Forest Road and connection to NSW Department of Health water mains and sewer mains.
- (6) Prior to the commencement of works the payment of \$23,366.00 is to be made to Orange City Council as a contribution towards the upgrade of Forest Road and Huntley Road intersections.

DURING CONSTRUCTION/SITEWORKS

- (7) Prior to the carrying out of any works, the applicant shall ensure full compliance with the recommendations of the Preliminary Aboriginal Heritage Assessment, prepared by AHMS and dated July 2013.
- (8) 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 OEH and representatives from the Orange LALC 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.
- (9) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (10) 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 the lot from 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.
- (11) Water and sewer services, including mains construction, pumping station construction, easements and all associated materials and works, are to be provided for the development at the cost of the developer.

Conditions (cont)

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- (11) Application shall be made for a Subdivision Certificate under Section 109(1)(d) of the Act.
- (12) Prior to the issuing of the Subdivision Certificate, a Surveyor's Certificate or written statement is to be provided to the Principal Certifying Authority, stating that the buildings within the boundaries of the proposed Lot 601 comply in respect to the distances of walls from boundaries.
- (13) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1 ET for water supply headworks and 1 ET for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (15) Certification from Telstra, stating that telecommunication systems comply with Australian Standards, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (16) Certification from Country Energy, stating that electricity and street lighting systems comply with Country Energy's Networks Division Customer Connection Policy NP11.1, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (17) 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.
- (18) 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.

ADVISORY NOTES

- (19) All roads, water mains, sewer mains and stormwater mains within the Bloomfield site are privately owned and are not the responsibility of Orange City Council.

GENERAL TERMS OF APPROVAL OF THE RURAL FIRE SERVICE (RFS)

This response is to be deemed a Bush Fire Safety Authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

- (1) The development proposal is to comply with the subdivision layout identified on the drawing prepared by Geoffrey William Knox numbered BG885-DA.pin, sheet 3a, revision B, dated 2 November 2012.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

- (2) At the commencement of building works and in perpetuity the property to the south and east of the proposed dwellings, to a distance of 50 metres shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Conditions (cont)

General Terms Of Approval of The Rural Fire Service (RFS) (continued)

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- (3) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

- (4) Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (5) New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

General Advice – consent authority to note

An emergency/evacuation plan is to be prepared that is consistent with section 4.2.7 of Planning for Bush Fire Protection 2006.

GENERAL TERMS OF APPROVAL FROM THE HERITAGE COUNCIL OF NEW SOUTH WALES

- (1) All work must be carried out in accordance with the following documents (except where amended by conditions below);
- Heritage Impact Statement for Subdivision prepared by OCP Architects Pty Ltd Issue C dated February 2013;
 - Species Impact Statement prepared by Ecobiological dated October 2012;
 - Vegetation Management Plan prepared by Ecobiological dated May 2011;
 - Offset Area Vegetation Management Plan prepared by Ecobiological dated November 2012;
 - Subdivision Plan of Lot 501 DP 1175400 Surveyor's Reference 481/07 (attached).
- (2) The overgrown road identified on the 1960s aerial photograph of the site is to be recorded by a suitably qualified surveyor. The record is to be stored in a suitable archive with other archival materials relating to the site.
- (3) An application under section 60 of the NSW Heritage Act must be submitted and approved by the NSW Heritage Council prior to work commencing.

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 6 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:

2 October 2013