2012/689
REPORT TOWESTERN REGION JOINT REGIONAL PLANNING PANELFROMTOWN PLANNER (CRUMP)DATE25 JUNE 2012ONDEVELOPMENT APPLICATION
28 AND 30–38 BYNG STREET, ORANGE
(ALSO KNOWN AS 27-29 SUMMER STREET, ORANGE)
HOUSING FOR AGED OR DISABLED PERSONS (DEMOLITION,
ADDITIONS AND ALTERATIONS TO EXISTING BUILDINGS)PR18113, PR53970 - IC12/4356

	FK10113, FK33970 - IC12/4330
Application Lodged	8 February 2012
Development Application No	DA 27/2012(1)
Plan No/s	Project no. 2010160: DA001 Issue P; DA002 Issue P; DA003 Issue N; DA100 issue T; DA110- A issue T; DA110-B issue T; DA111-A issue T; DA111-B issue T; DA112 Issue T DA114 issue O; DA130 issue P; DA131 issue P; DA170 issue P; DA300 issue Q; DA400 issue Q; DA401 issue P; DA402 issue P; DA403 issue Q; DA404 issue R; DA500 issue P; DA501 issue P; DA502; DA503; DA504; DA505; DA910 issue P; DA911 issue P; DA912 issue P; DA913 issue P; DA1000; DA1001; DA1002; DA1003 Perspective 1; Perspective 2 and Perspective 3. Job No. 11-043s:
	LA01 issue F and LA02 issue E
	(38 sheets)
Applicant	Pure Projects Pty Ltd Level 4, 4 Glen Street MILSTONS POINT NSW 2061
Owner/s	The Uniting Church in Australia Property Trust (NSW) C/- Uniting Care Ageing 72 Prince Street ORANGE NSW 2800



Land Description	Lot 10 DP 1015171, Lot 1 DP 955656 and Lot 1 DP 308157 – 28 and 30-38 Byng Street, Orange (also known as 27-29 Summer Street, Orange)
Proposed Land Use	Housing for aged or disabled persons (demolition, additions and alterations to existing buildings)
Value of Proposed Development	\$22,820,600
Provisions of LEP 2000 (amended)	Zone 2(a) Urban Residential
Details of Advertisement of Project	Pursuant to the requirements of nominated integrated development the development application was advertised for 30 days. The development was advertised in the Central Western Daily on Wednesday, 11 April 2012. Exhibition closed on Thursday, 11 May 2012
Recommendation	Approval

EXECUTIVE SUMMARY

Consent is sought to undertake demolition, additions and alterations to existing housing for aged or disabled persons at the Wontama Retirement village 30 – 38 Byng Street. The subject land contains the Berrilea Mansion, the adjacent stables and tank stand; as well as the curtilage of the listed items of which the Berrilea mansion is listed on the State Heritage Register. Berrilea is also a Heritage item of state significance under Orange Local Environmental Plan 2011. Due to the State listing, the development is nominated integrated development and requires a licence from the NSW Heritage Branch. The referral from the NSW Heritage Branch has been sought and the General Terms of Approval form part of the attached draft notice of determination.

The development has a capital investment value over \$20 million and therefore requires determination by a Joint Regional Planning Panel, in this case the Western Region Joint Regional Planning Panel.

The development triggers requirements contained within State Environmental Planning Policy (Infrastructure) 2007 in relation to the classification of Summer Street that requires referral to the Roads and Maritime Service. A referral has been sought from RMS and forms part of the draft notice of determination.

The applicant has nominated that the application is submitted under the provisions of State Environmental Planning Policy (SEPP) (Housing for Seniors or People with a Disability) 2004. Notwithstanding, the development requires consideration against the provisions of Orange Local Environmental Plan 2000, Orange Local Environmental Plan 2011 and Development Control Plan 2004. However, if the SEPP is inconsistent with these LEPs the Policy prevails to the extent of the inconsistency.

The applicant submits that the development will consist of the following:

- Demolition of the existing administration building, the shed and carport at the frontage of the site, the 1960's nursing home and the driveway from Byng Street which provides access along the western part of the site;
- Reconfigure the existing driveway from Byng Street which provides access along the eastern part of the site;
- Internal refurbishment of the existing 1980's nursing home at the rear of the site (fronting Summer Street) to facilitate a new "community building";
- Internal refurbish works to the existing Clancy Weston Lodge and minor external works;
- Construction of two (2) new two storey, interconnected brick buildings adjoining the existing 1980 nursing home, to be known as blocks C and D;
- Construction of two (2) new single storey, interconnected brick buildings towards the Byng Street frontage of the site, to be known as blocks A and B;
- Construction of a new car parking area to the north of the existing Berrilea Cottage and the provision of ten (10) car spaces;
- Construction of a new car parking area to the east of proposed Blocks B and C and the provision of twenty one (21) car spaces and two (2) accessible car spaces;
- The removal of thirty-eight (38) trees; and
- Associated site works, drainage and landscaping.

Executive Summary (cont)

In addition to the above, the applicant is required to consolidate the adjoining land at 28 Byng Street with the larger parcel that contains the existing housing for aged or disabled persons.

The submitted plan identified as DA003 Issue N "site staging diagram" provides how the development is likely to proceed in terms of staging. Formal advice from the applicant indicates that a notice of determination would be sought for the development as a whole or as one proposal, and Construction Certificates and Interim Occupation Certificates would be sought as required. The subject development application is not a staged development application made under Section 83B of the Environmental Planning and Assessment Act 1979 (the Act).

The refurbishment of the existing nursing home adjacent to Berrilea is proposed to involve administration facilities, offices, training areas, storage space and a hair dresser. The hair dresser is considered ancillary to the use of the land as housing for aged or disabled persons.

As outlined in the body of the report, Council staff, including Council's Heritage Advisor, have concerns with the presentation of the development within the Byng Street frontage. The report has provided options in regards to this element of the development with a recommended approach via way of a condition of consent.

It was also requested that the applicant reinstate the landscape setting to the curtilage of the heritage items. In doing so it is recommended that the JRPP allows a variation to car parking requirements to facilitate this. This is discussed in detail below with appropriate conditions attached.

With consideration to the conditions of consent attached to the draft notice of determination, the development is recommended for approval.

FINANCIAL IMPLICATIONS

This matter is not relevant to the assessment of the application.

POLICY/GOVERNANCE IMPLICATIONS

There are no policy or governance issues of Orange City Council associated with this application.

RECOMMENDATION

That the consent authority approves development application DA 27/2012(1) for Housing for aged or disabled persons (demolition, additions and alterations to existing buildings) at Lot 10 DP 1015171, Lot 1 DP 955656 and Lot 1 DP 308157 - 28 and 30-38 Byng Street, Orange (also known as 27-29 Summer Street, Orange) pursuant to the conditions of consent in the attached Notice of Approval.

SUPPLEMENTARY INFORMATION

THE APPLICATION

The Western Region Joint Regional Planning Panel's consent is sought to undertake demolition, alterations and additions to existing housing for aged or disabled persons on land described as Lot 10 1015171, Lot 1 DP 955656 and Lot 1 DP 308157. The land is known as 28 and 30–38 Byng Street, Orange (also known as 27-29 Summer Street, Orange).

THE PROPOSAL

The applicant submits that the proposal involves the following:

- Demolition of the existing administration building, the shed and carport at the frontage of the site, the 1960's nursing home and the driveway from Byng Street which provides access along the western part of the site;
- Reconfigure the existing driveway from Byng Street which provides access along the eastern part of the site;
- Internal refurbishment of the existing 1980's nursing home at the rear of the site (fronting Summer Street) to facilitate a new "community building";
- Internal refurbish works to the existing Clancy Weston Lodge and minor external works;
- Construction of two (2) new two storey, interconnected brick buildings adjoining the existing 1980 nursing home, to be known as blocks C and D;
- Construction of two (2) new single storey, interconnected brick buildings towards the Byng Street frontage of the site, to be known as blocks A and B;
- Construction of a new car parking area to the north of the existing Berrilea Cottage and the provision of ten (10) car spaces;
- Construction of a new car parking area to the east of proposed Blocks B and C and the provision of twenty one (21) car spaces and two (2) accessible car spaces;
- The removal of thirty eight (38) trees; and
- Associated site works, drainage and landscaping.

In addition to, and in order to facilitate the above works, the applicant is required to consolidate land legally described as Lot 1 DP 955656 and Lot 1 DP 308157 (known as 28 Byng Street) with land described at Lot 10 DP 1015171 (known as 30–38 Byng Street – aka 27–29 Summer Street). The applicant submits that the existing dwelling at 28 Byng Street will continue to be used for residential purposes and that a subdivision in the form of a boundary adjustment is not sought to excise the existing dwelling into a separate title.

The submitted plan identified as DA003 Issue N "site staging diagram" provides how the development is likely to proceed in terms of staging. Formal advice received from the applicant indicates that a notice of determination would be sought for the development as a whole or as one proposal and Construction Certificates and Interim Occupation Certificates would be sought as required. The subject development application is not a staged development application made under Section 83B of the Environmental Planning and Assessment Act 1979 (the Act).

The Proposal (cont)

The refurbishment of the existing nursing home adjacent to Berrilea is proposed to involve administration facilities, offices, training areas, storage space and a hair dresser. The hair dresser is considered ancillary to the use of the land as housing for aged or disabled persons.

NOMINATED INTEGRATED DEVELOPMENT

The subject land contains Berrilea Mansion which is listed on the NSW State Heritage Register. Pursuant to clause 91 of the Environmental Planning an Assessment Act 1979 the development is a nominated integrated development through section 58 of the Heritage Act 1977. General Terms of Approval have been sought from the NSW Heritage Branch which form part of the attached draft Notice of Approval. The development was advertised for the prescribed time period pursuant to the legislation.

The development also triggers the requirements of State Environmental Planning Policy (Infrastructure) 2007 in terms of the road classification for Summer Street. Whilst this is not strictly a requirement of integrated development it does require the endorsement of Roads and Maritime Service (RMS). A submission was received from RMS and forms conditions on the attached Notice of Approval.

BACKGROUND

Council received the subject application on 8 February 2012. The application as initially submitted did not identify the listing of Berrilea Mansion on the NSW State Heritage Register. As a result, Council staff engaged Council's Heritage Advisor to provide preliminary advice in relation to the application. In addition to general heritage advice, it was requested by Council staff that Council's Heritage Advisor recommend the extent of heritage documentation that should be requested of the applicant, given the heritage item on the subject land. It was established that ideally a Conservation Management Plan (CMP) or a thorough Conservation Management Strategy (CMS) be provided, or at the very least a Heritage Impact Statement (HIS) be prepared and a condition of consent be attached to the draft notice to require a CMP.

In responding to the advice in relation to a CMP, CMS or HIS, the applicant submitted a HIS and indicated that the proponent would accept a requirement for a CMP to be prepared within 12 months of the commencement of the works. A condition is attached for a CMP to be prepared prior to the issue of a Construction Certificate as it was advised by Council's Heritage Advisor that a CMP could be prepared in a much shorter timeframe of 3-4 months rather than the 12 month period proposed. The response in relation to the general advice contained within the preliminary heritage advice is discussed in detail below.

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)
- Orange Local Environmental Plan 2011
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Orange Development Control Plan 2004 and
- Environmental Planning and Assessment Regulation 2000

If the SEPP (Housing for Seniors or People with a Disability) 2004 is inconsistent with these LEPs the Policy prevails to the extent of the inconsistency.

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 is detailed below.

Pursuant to section 236 and schedule 4A of the Act the development is required to be determined by a Joint Regional Planning Panel, being the Western Region Joint Regional Planning Panel, due to the development having a CIV over \$20 million.

The subject land contains a State registered heritage item known as Berrilea mansion. The listed item includes the adjacent stables and tank stand. The State registered heritage item where referred to as "Berrilea" is intended to consist of Berrilea mansion, the stables, the tank stand and the curtilage throughout the report, unless specifically stated otherwise.

The development is permissible under Orange LEP 2000, LEP 2011 and State Environmental Planning Policy (Housing for Seniors or People with a Disability). The applicant has chosen for the development to be assessed against the provisions of the SEPP (Housing for Seniors or People with a Disability) 2004. Notwithstanding, consideration is required to be given to all three planning instruments. However, pursuant to clause 5 of the SEPP, if the SEPP (Housing for Seniors or People with a Disability) 2004 is inconsistent with these LEPs the Policy prevails to the extent of the inconsistency.

The development involves minor internal refurbishment and minimal external alterations of the existing Clancy Weston Lodge. The external works are proposed to facilitate a covered walkway section to link the new development with the Clancy Weston Lodge. The minor internal works are to facilitate a new foyer area, storage and relocate a resident room. The applicant submits that these works will *have no implications for total bed numbers*. It is considered that the proposed works are minor and will not impact on the significance of the heritage items or conservation area. This component of the development is considered acceptable. (Refer to relevant plan).

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

Orange Local Environmental Plan 2011 was gazetted on 24 February 2012. This application was lodged prior to gazettal of that instrument, and as such, the provisions of both the previous plan (Orange Local Environmental Plan 2000) and the current plan (Orange Local Environmental Plan 2011) need to be considered in the assessment of this application.

Orange Local Environmental Plan 2000 (amended)

The subject land is zoned 2(a) Urban Residential under Orange Local Environmental Plan 2000 (amended) ("the LEP"). The development is defined as "housing for aged or disabled persons". Pursuant to clause 86 of the LEP:

housing for aged or disabled persons means residential accommodation that may take any building form, which is or is intended to be used as housing for the permanent accommodation of aged persons or disabled persons.

Housing for aged or disabled persons is permissible with the consent of Council in the 2(a) Urban Residential zone pursuant to clause 38(2)(b) of the LEP.

Clause 2 - Aims of Plan

The development is consistent with the aims of the plan and relates specifically to the following aims:

- encourage development which complements and enhances the character of the City (a)
- (e) provide a range of housing choices in planned urban and rural locations to meet population demands.
- recognise and manage valued environmental heritage, landscape and scenic features (f) of the City.

The development provides an alternative accommodation choice for aged and disabled persons, accommodation of this kind being particularly pertinent given the demographics of an aging population within the Orange community. The 2011 census identifies that people aged 65 years and over equates to 14.4% of the Orange LGA population.

The subject land contains a state registered heritage item and is located within a Heritage Conservation Area. The development is considered to be consistent with the relevant aims listed above, excepting the presentation of the proposed building identified as House "A" within the Byng Street streetscape. This is discussed in detail below.

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:

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

Clause 24 - The Zones (cont)

The development is consistent with the relevant aims and objectives of the plan.

Relevantly, the objective of the 2(a) urban residential zone is to provide for a fully serviced urban residential environment with a rage of housing forms and complementary community and business uses taking into account the distinct character of existing and proposed localities with the urban area.

Clause 8 - General Considerations for Development

Clause 8 of the LEP requires that before determining an application for consent to development, Council shall give consideration to such matters listed therein that are of relevance. The matters that are of relevance to this proposal are:

- (a) the potential of that development to impact on:
 - (ii) groundwater resources, and
 - (vi) existing vegetation, native flora and fauna, and
- (b) the cumulative impact on the environment of:
 - (i) the development, and
 - (ii) other development in the vicinity of the proposed development, and
- the impact on the scenic, landscape or urban character of the area, and (c)
- (d) the impact of the development on energy conservation, and
- the impact of the development on waste generation, and (e)
- any measures necessary to mitigate any of these impacts. (f)

In relation to (a)(i) above, 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 subject land contains an existing bore and will continue to extract from that source. The subject bore has a current basic rights approval from NSW Water. The design and siting of the proposal has sought to avoid impacts on groundwater and is therefore considered acceptable.

In relation (a)(vi) above, a flora and fauna study was submitted in support of the development which concludes the following:

Urban land use practices and human associated impact across the subject site has substantially lowered habitat quality and availability for both native flora and fauna.

Assessment of the subject site concludes that the proposed Wontama Retirement Village is unlikely to result in a significant effect of threatened species, populations or ecological communities, or their habitat. A species impact statement is not warranted.

It is agreed that the proposed development is unlikely to result in an adverse impact to flora and fauna on the site. The development is a continuation of the current landuse which is a developed site within an urban context. The development is considered satisfactory in terms of likely impacts on flora and fauna.

Clause 8 - General Considerations for Development (cont)

In relation (b)(i) and (ii) above, refer to consideration below on likely impacts.

In relation to (c) above, the development is not likely to impact on the scenic, landscape or urban character of the area in terms of the Summer Street frontage. The presentation of House "A" within the Byng Street frontage is considered to be inconsistent with the existing character of the area. This is addressed in detail below under "Clause 76 – Consideration of Development Affecting Heritage Items or Heritage Conservation Area".

In relation to (d) above, the development is not likely to result in unreasonable impacts in terms of energy conservation. It is submitted by the applicant that the design of the site, landscape and buildings will be guided by best practice standards in ecologically sustainable design ... low-energy design features include cross ventilation to the majority of rooms and living areas, northern orientation where possible and use of wall panels to all bedrooms for heating and cooling. The measures taken are considered appropriate.

In relation to (e) above, appropriate conditions are attached in relation to the generation of waste from the demolition works. Council staff's request outlined in detail below to reinstate the landscape setting behind Berrilea results in a car park arrangement similar to that of the existing arrangement. Resultantly, the waste collection area east of the stables as originally proposed is unsuitable in the proposed location; as such all waste collection will be required to occur from the Byng Street entrance. The traffic arrangements within the north of the site are adequate for such vehicles.

In relation to (f) above, it is considered that appropriate measures have been implemented.

Clause 13 - Sewage Disposal

Before determining an application for consent to development that will result in the generation of sewage or other effluent, consideration shall be given by the consent authority to:

(a) whether the site of the proposed development should be connected to public sewerage facilities and, if so, whether the land is capable of being connected to public sewerage facilities either now or in the future.

The subject land has an existing connection to Council's public sewerage system and is identified as being adequate for the proposal.

Clause 41 - Urban Residential Zones - General Considerations

Clause 41 requires consideration of the following:

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

- (a) the development will be compatible with the existing character and amenity of the residential locality with consideration given to:
 - (i) it's 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.
- (b) Adequate arrangements have been made for the supply of water, and the disposal of sewage and stormwater.
- (c) The development incorporates measures for the conservation of energy, and waste management.

In relation to (a) above, these matters are addressed below under the headings "State Environmental Planning Policies", "Development Control Plan 2004" and "Likely Impacts of the Development".

In relation to (b) above, the subject land is currently connected to Council's water, sewer and stormwater system. These systems are adequate for the development. The subject land also contains a basic rights bore which is used to water the landscaping.

In relation to (c) above, appropriate measures have been implemented for the conservation of energy and are discussed above under clause 8 considerations. Measures have been implemented in terms of waste management, also discussed above under clause 8.

Part 12 Heritage

The subject land contains Berrilea Mansion which is listed on the NSW State Heritage Register and is a heritage item of State significance under LEP 2000 and LEP 2011. The subject land is also located within the Central Orange Heritage Conservation Area. The Orange Heritage Study describes the mansion as:

... a fine house of transitional late Victorian/Early Edwardian style with hipped and gabled slate rooves with galvanised ridge capping, sloping corrugated iron verandah rooves supported on round cast iron columns decorated with ornate cast iron brackets and frieze. Double hung sash windows one wide flanked by two narrow and divided by moulded rendered pilasters. Rendered dado banding, lead light French doors to verandah.

The adopted draft Community-based Heritage Study describes the heritage item as an:

... extraordinary Edwardian residence and garden. The building is rare within NSW, complements the streetscape directly opposite Cook Park and is a significant heritage item within the conservation area.

Clause 74 - Objectives for Heritage Conservation

The objectives of Part 12 are:

- (a) to conserve the environmental heritage of the City of Orange and,
- (b) to provide the opportunity for public information and participation in heritage matters, and
- (c) to ensure that development is consistent with the heritage character of the City of Orange.

The proposal is not contrary to the objectives of Part 12 of the plan.

Clause 75 - Heritage Items and Heritage Conservation Areas

Clause 75 (1) of the LEP provides that development consent is required for the following development:

Heritage Items

- (a) demolishing or moving a heritage item, or a building, work, relic or tree on the site of a heritage item,
- (b) altering a heritage item by making structural or non-structural changes to its exterior, including changes to the detail, fabric, finish or appearance,
- (c) erecting a building on land, or subdividing land on which a heritage item is located.

Heritage Conservation Areas

- (f) demolishing or moving a building, work, relic or place within a Heritage Conservation Area,
- (g) altering a building, work, relic, or place within a Heritage Conservation Area by making structural or non-structural changes to its exterior, including changes to the detail, fabric finish or appearance.
- (h) erecting a building on land, or subdividing land, which is within a Heritage Conservation Area.

Items (a), (b), (c), (f), (g) and (h) listed above are relevant to the proposed development. The applicant is seeking development consent, and as such the development is consistent with the above.

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area

- (1) When determining a development application required by this Part, the consent authority shall take into account the extent to which the development would have an impact on the heritage significance of heritage items or Heritage Conservation Areas.
- (2) The consent authority may decline to grant consent for development in respect of a heritage item designated in Schedule 8 as having "national", "State" or "regional" significance until it has considered a conservation management plan, explaining the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.
- (3) Before granting a consent for demolition of a building required by this Part, the consent authority shall consider a plan or description of any building which is proposed to take the place of the building to be demolished.

The following is provided in relation to the above:

The rear of Berrilea, being the curtilage of the heritage item, currently consists of a parking area, raised garden bed with large Ash tree (that is proposed to be removed), cream palisade fencing and concrete paved area and concretes ramp within the fenced area which abuts the mansion. (Refer below to photographs).



Curtilage of "Berrilea" mansion - subject tree to be removed

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)



Existing car park area looking south towards "Berrilea" mansion



Existing fence and paved area rear of "Berrilea" mansion

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

The applicant proposed to provide additional car parking and hardstand area behind Berrilea and abutting the north elevation of the mansion as part of the original proposal. Doing so would require the removal of a large mature Ash tree (species identified by applicant) and the installation of a large area of hardstand immediately adjacent to Berrilea. As part of the submitted HIS, the applicant is required to answer the following question (required by the NSW Heritage Manual 'Statements of Heritage Impact') that asks: *how does the curtilage allowed around the heritage item contribute to the retention of its heritage significance*? The applicant responds with the following; that *the rear curtilage to Berrilea, where a later built fence and car park are located will be impacted by the removal of this fence and extension of the car park up to the rear wall of the Berrilea building. The work is to include kerbing and guttering around the car park and a series of ground level car park buffer ... designed to prevent any damage to the rear wall of Berrilea caused by vehicles... (refer p. 39 of HIS).*

In response to the above comment, within the submitted HIS Council's Heritage Advisor asserts that: "The HIS suggests that the addition of kerbing, car park buffers and definition of the parking area will somehow mitigate this heritage impact. While the HIS's concern for physical impact is perhaps a real concern, the pertinent heritage issue is the appropriate curtilage and setting of the house which is being rapidly eroded with increased car parking and hard standing areas and loss of mature trees." This is further reinforced by Council's Heritage Advisor's comments in response correspondence from Taylor Brammer which "focuses on the rear area of Berrilea with a point view that it is of secondary significance but omitting to comment on the mature plantings noted as being part of the original gardens in their DA report". Council's Heritage Advisor asserts: "the garden area at the rear of Berrilea was likely to have been as significant a component in the overall planting as the Summer Street frontage".

Moreover, Council's Heritage Advisor presents the following in response to further comment from Taylor Brammer in relation to the rear of Berrilea being diminished by recent 20th century changes and that it would not be inappropriate to diminish this area further: *"this overlooks any potential for reversing some of the damage of the past and better presenting the original house and ruminant planting".*

As mentioned above, the additional car parking and hardstand area within the curtilage of Berrilea requires the removal of a large tree. The applicant submits the subject tree (identified as T13 on the submitted Taylor Brammer plan - plan no. LA01) is "generally in poor condition". This is supported by Council's Manager City Presentation and it is agreed that the subject tree should be removed. Council's Heritage Advisor recommends replacing the subject tree like-for-like.

In considering this matter, particularly in relation to the advice of the Heritage Advisor, Council staff are of the view that the carrying out of this development would be a good opportunity to rectify the unsympathetic development that has occurred at the rear of the Berrilea mansion and reinstate landscaping within this area. Council staff advised the applicant that they would be prepared to recommend to the JRPP that the number of car parking spaces required to be provided be reduced in this area of the development in order to have the ability to replace the subject tree and to reinstate the landscape setting within the curtilage of the heritage item.

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

The purpose of this request is to allow a greater level of sympathy and respect to be applied to the State registered heritage items on the land and to reduce the erosion of the identified curtilage of the heritage item - not only Berrilea but also the stables, tank stand and curtilage. It is considered that the erosion can be somewhat reduced through eliminating the proposed hardstand and car parking areas which will be imposing and impact on the significance of the heritage items.

However, it is acknowledged that the works required to reinstate the landscaped curtilage of the Berrilea mansion are outside the works proposed by this application with the exception of the removal of the abovementioned tree and the provision of a small number of parking spaces.

The applicant responded to Council staff's suggestions in relation to the hardstand and car park area and indicated they would be amenable to the notion of replacing the subject tree with a suitable species, and have now proposed to leave the existing parking as is (refer plan DA1000). However, the applicant states in relation to reinstating the landscape setting of Berrilea: "otherwise, the development now no longer involves any work or change to existing parking and landscape conditions within the curtilage of the cottage and the immediate curtilage of the stables and tank stand to the west as this area, In the circumstances, no further landscape reinstatement is warranted as it does not reasonably relate to the proposed development".

In relation to the revised proposal to maintain the current arrangement it is considered prudent to attach a condition to remove three of the existing parking spaces within the curtilage of the Berrilea Mansion. The three subject parking spaces are identified as follows; the single angled space located adjacent to the southwest side of the existing raised garden bed, the parking space adjacent to the eastern elevation of Berrilea Mansion and the southernmost parking space located along the eastern boundary south of the stables. The purpose of this recommendation is twofold, firstly to improve the practicality of this area in terms of entering the subject spaces, manoeuvring, and access around the Berrilea Mansion, and secondly, to allow a more sympathetic approach to the heritage items and to allow a greater amount of area to be reinstated with landscaping. As mentioned above it is recommended that the JRPP allow a level of flexibility in terms of on-site parking to facilitate the above. A relevant condition is attached to the Notice of Approval.

It is disappointing that the applicant has not agreed to reinstate the landscape setting of the highly significant Berrilea mansion, stables, tank stand and curtilage. Council's Heritage Advisor asserts" *"I would reiterate my February advice, that as a minimum a CMS be prepared that addresses the key aspects of trees and landscaping and particularly those relating to the Berrilea gardens. Thereafter the resultant policies should be used as a framework for the care and conservation of the property."* In light of this advice, the advice above and the applicant's reluctance to reinstate the landscaped setting of the heritage item, a condition is attached to the draft notice requiring a Conservation Management Plan to be prepared prior to the issue of a Construction Certificate. As part of the CMP, a direction and policy framework will be required to be established in terms of reinstating the landscaped setting within the curtilage of the heritage items.

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

A further condition is attached requiring landscaping to be reinstated to the curtilage of the heritage item in accordance with the prepared CMP. In addition to the condition listed above, a further condition is attached requiring the replacement of the tree identified as T13 with an appropriate species approved by Council's Manager City Presentation in the location of the raised garden bed, and that the garden bed be replaced with a landscape bed suitable for the selected species and that suitably integrates into the heritage context.

It is noted that correspondence from the applicant in response to Council's preliminary heritage advice presents the argument that a CMP or CMS is unnecessary at the time of determination and that the proponents: "would accept a condition requiring a conservation management plan to be prepared for the site within 12 months of the commencement of works on the site associated with this application (representing the time necessary for the preparation of a plan of this nature)". In relation to the above, it was accepted that a HIS (as a minimum) was required and the applicant subsequently submitted a HIS. In relation to the latter part of the comment above from the applicant in relation to timeframes for the preparation of a CMP, this is disputed by Council's Heritage Advisor who asserts that a CMP could be prepared in 3–4 months (as opposed to the 12 months estimated by the applicant); and as such it considered reasonable to require a CMP prior to the issue of a Construction Certificate.

The NSW Heritage Branch describes CMP's as an important tool that provide a guide to future care and use, including any new development. Dr James Kerr describes a CMP as "...a document which sets out what is significant in a place and, consequently, what policies are appropriate to enable that significance to be retained in its future use and development. For most places it deals with the management of change". (Kerr, The Conservation Plan, National Trust NSW, Sydney 2000: 1). It is unfortunate that a CMP or thorough CMS was not prepared prior to lodging the development application. Notwithstanding this, in terms of managing the ongoing significance of the heritage item and any future development on the land, a CMP is viewed as a great asset -, not only to the localised significance of the immediate vicinity, but to the environmental and cultural heritage significance at a community level.

In terms of the presentation of the development to Byng Street, concerns were raised with the applicant in relation to the loss of established trees to facilitate the development. Council's Heritage Advisor states: <u>"</u>unfortunately, the loss of the trees in the vicinity of the Byng Street frontage will pose a major visual impact and loss to the streetscape". Whilst it is considered unfortunate, the removal of the established trees in the north of the site is all but fait accompli, and in light of this appropriate measures should be taken to achieve the most appropriate outcome in terms of streetscape compatibility and presentation in consideration of the loss of established vegetation. This is emphasised by Council's Heritage Advisor by stating: "the HIS acknowledges that the Byng Street area of "the Heritage Conservation Area will be impacted by the new buildings facing Byng Street". While the HIS notes the low building height and residential character of the new buildings, it does not address the issue of loss of trees or increased bulk and scale of the new buildings relative to the neighbouring cottages which could be mitigated by increased setback and screen planting".

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

Council's Heritage Advisor also poses the question as to whether design alternatives could be considered in terms of retaining the trees. The applicant responded to this by stating that: "Our understanding was that tree removal, height, density, site coverage and heritage were considered by Council to have been appropriately resolved, and in relation to the Byng Street frontage, Council sought to have House A with two sections with are expressed to the street with a setback middle section to read as two houses as viewed driving along the street." This was alleged to have been resolved at a meeting held 22 September 2010.

Whilst there was a general acceptance by Council staff in consideration of preliminary design at pre-lodgement meetings that the development would result in the loss of a substantial number of trees and to the proposed height, density and site coverage. Council staff did recommend a greater setback of the western half of House A to reflect the greater setback of the adjoining dwelling to the west at 28 Byng Street and to reduce the visual bulk of that building relative to the existing built form in the locality.

Notwithstanding the above assertions from the applicant, this component of the proposed development in relation to the Byng Street frontage appear to contradict notes taken by the applicant from a meeting held with Council staff prior to the above alleged meeting which states: "a particular concern with the 3 storey Byng Street frontage – look at steeping frontage 1, 2 then to 3 storeys – 1 and 2 storey portions of building could move closer to street boundary to align with adjoining Byng Street residential frontages to the east and west". The development as proposed relating to house "A" which presents to the Byng Street frontage does not "align" with the adjoining property to the west, and is considered substantially forward of the existing residential dwelling to the west, a distance of in excess of 3m.

The reduced setback is considered to be detrimental to the established streetscape as it is considered this component of the development will be domineering and of a scale that is inconsistent with the established built form. This is supported by Council's Heritage Advisor who asserts: "the tabulated assessment does not take account of the scale of existing residential buildings relative to the scale and massing of the proposed accommodation block. In my opinion, the greater scale and massing would warrant a greater setback and screening as compared to the existing modest cottages".

It is acknowledged that a streetscape and setback analysis has been undertaken and submitted in support of the application, which is referenced to in the above quoted advice. From the analysis an average front setback of 6.940m was concluded and thus proposed for the front setback of house "A". It is argued that this figure is somewhat skewed in the fact that three of the identified properties in the vicinity present between a 1.5m to a 0m setback which reduces the "average" significantly. Whilst it is the case that a number of buildings do present a reduced setback, it must be acknowledged, however, that these buildings consist of a much more modest scale to that which is proposed for this development, and that the adjoining property to the west (a property of greater scale to those with the minimal setback) has a front setback of 10m.

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

Council's Heritage Advisor states: "if there are no alternatives to the setback / siting issues, House A should at least be setback an increased distance from Byng Street and the massing of the length of building reduced if possible. Compared to the other buildings in the streetscape it presents a considerably wider frontage, and although an effort has been made to break up that frontage into two components, these components still have a consistent/unbroken ridge line and therefore is more likely to be read as a single large building ... in view of the scale of the proposed buildings it is recommended that it be setback at least to that of the building to the west. This would allow for a greater degree of planting and screening along the Byng Street boundary then (sic) the current minimum proposed. This would reduce the streetscape impact, as well as probably improve the functional/privacy aspects of the proposed accommodation."

In light of the above, this report presents possible options for the JRPP's consideration, specifically relating to the presentation of house "A" within the Byng Street frontage as follows;

- 1 Approve this component of the development as submitted, or
- 2 Require redesign to increase the setback of the western half of House "A" to be consistent with the established setback of number 28 Byng Street, or

The following is recommended by this report: a condition is attached to the notice of approval requiring redesign of House "A" to provide for a setback of the western half of House "A" to be consistent with the setback of number 28 Byng Street. The conditions states that revised plans are required to be submitted denoting the increased setback for the approval of Council's Manager Development Assessments prior to the issue of a Construction Certificate. It is considered that stepping the western half of house "A" back to achieve a setback consistent with the adjoining property to the west (28 Byng Street) will be doubly affective by achieving a more compatible streetscape presentation to that of the existing built form, and also will assist with achieving autonomy between the two halves of house "A" to appear like two distinguishable dwellings.

In conjunction with this condition, a further condition is attached requiring additional landscaping within the increased setback within the Byng Street frontage. The above recommendation has been made, however, should the JRPP not support the recommendation, the draft notice will then require the appropriate amendments.

Further to the above, and specifically in relation to the proposed verandah within the front elevation of house "A", Council's Heritage Advisor's preliminary advice was positive in terms of the proposed verandah suggesting: "The design of the street elevation of House A, likely to have the greatest impact on the streetscape, has made some effort to respond to local context with the addition of a verandah and the rhythm verandah posts. However, the depth of the verandah appears to be only I the order of 600mm". It has since been clarified that the depth of the verandah is proposed to be 1000mm. In response to the clarified depth Council's Heritage Advisor provides the following: "It is positive that the verandah is wider than apparent from the drawings. However, the 1000mm 'width' suggested is less than would be expected for a verandah, so I would recommend that the 1000mm be agreed from the back wall of the verandah to the centre line of the post." This is attached as a draft condition of consent.

Clause 76 - Consideration of Development Affecting Heritage Items or Heritage Conservation Area (cont)

In relation to the small entry pavilion and shade structure within the Byng Street frontage between the driveway and House "A", it is submitted by the applicant that the structure is intended to be immediately visible from the street frontage and to provide a sense of arrival. It is further submitted by the applicant that" "UCA [the proponent] considers that this element would have no function if pushed back into the site and would prefer to delete it altogether if Council made pushing it back to line up with House A or further a condition of consent". Further comment is made by the applicant in relation to a timber structure on the street boundary at 42 Byng Street.

Council's Heritage Advisor provides the following in response to the above: "this section (of the applicant submission) notes that the precedent for the brick and tile "small entry pavilion and shade structure" is a modest timber 'lynch gate' at 42 Byng Street. But it is also unclear how the pavilion will functionally allow drop off as it is on the right-hand side of the entrance. I would recommend that the structure be set back into the site or deleted as suggested in the design statement."

In consideration of the above it is recommended the structure be deleted from the proposal. A relevant condition is attached to the notice.

Clause 77 - Development in the Vicinity of Heritage Items

The consent authority may grant consent to development affecting land in the vicinity of a heritage item, Heritage Conservation Area, archaeological site or potential archaeological site only after considering an assessment of the impact that the development would have on the heritage significance, curtilage and setting of the item or Heritage Conservation Area as well as the impact of the development on any significant views to or from the heritage item or conservation area.

The first part of clause 77 is addressed above. In terms of the latter points of clause 77, the proposed development will not impact on any significant views to or from the heritage item in Summer Street. An assessment of the impact to the significance of the loss of the large tree (T13) at the rear of Berrilea is considered low when viewed from Cook Park or the Summer Street streetscape. Notwithstanding this, the loss of the tree is considered to impact upon the significance of the heritage items within the development site; and as such a condition is attached requiring the tree to be replaced with an appropriate species. In addition to this, as mentioned above the existence of and the intensification of car parking and hardstand areas to the rear of Berrilea and adjacent to the stables and tank stand is considered to have an unreasonable impact to the significance of the heritage item as discussed above.

In terms of the Byng Street frontage, this portion of the development is not likely to reduce any significant views to or from the heritage item or Heritage Conservation Area apart from the street scape issues discussed above.

Clause 78 – Heritage Proposals Being Advertised Development

- (1) The following development for which consent is required by this Part is advertised development for the purposes of the Act:
 - (a) the complete or substantial demolition of a building or work that is a heritage *item*,
 - (b) the complete or substantial demolition of any significant feature of a heritage *item*,
 - (c) the demolition of a building, work, relic or place within a Heritage Conservation Area,
 - (d) the carrying out of any development under clause 79.

The development has been advertised in accordance with the requirements of integrated development as a result of the state registered heritage item on the subject land.

ORANGE LOCAL ENVIRONMENTAL PLAN 2011

Orange Local Environmental Plan 2011 was made on 24 February 2012 which was made after receipt of the subject development application.

Part 1 - Preliminary

Clause 1.2 - Aims of Plan

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

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

The application is considered to be consistent with aims (a), (b), (e) and (f), except where discussed above in relation to the Byng Street frontage, and appropriate conditions have been attached.

Clause 1.8a - Savings Provision 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 that commencement, the application must be determined as if this Plan had not commenced.

Clause 1.8a - Savings Provision Relating to Development Applications (cont)

As mentioned above, the subject development application was lodged prior to LEP 2011 being made, as such; whilst the provisions of OLEP 2011 need to be considered in the assessment of this application, this application must be determined under the provisions of OLEP 2000.

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 title of the subject property being affected by any of the above.

Mapping

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

Lot Size Map:No Minimum Lot SizeHeritage Map:A heritage item is identified on the subject land. The land is located in a Heritage Conservation AreaHeight of Buildings Map:No building height limitFloor Space Ratio Map:No floor space limitTerrestrial Biodiversity Map:No biodiversity sensitivity on the siteGroundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:No restriction on building siting or construction		
Heritage Map:A heritage item is identified on the subject land. The land is located in a Heritage Conservation AreaHeight of Buildings Map:No building height limitFloor Space Ratio Map:No floor space limitTerrestrial Biodiversity Map:No biodiversity sensitivity on the siteGroundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:No restriction on building siting or construction	Land Zoning Map:	Land zoned R1 General Residential
Heritage Map:The land is located in a Heritage Conservation AreaHeight of Buildings Map:No building height limitFloor Space Ratio Map:No floor space limitTerrestrial Biodiversity Map:No biodiversity sensitivity on the siteGroundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Lot Size Map:	No Minimum Lot Size
Floor Space Ratio Map:No floor space limitTerrestrial Biodiversity Map:No biodiversity sensitivity on the siteGroundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Heritage Map:	A heritage item is identified on the subject land. The land is located in a Heritage Conservation Area
Terrestrial Biodiversity Map:No biodiversity sensitivity on the siteGroundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Height of Buildings Map:	No building height limit
Groundwater Vulnerability Map:Ground water vulnerableDrinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Floor Space Ratio Map:	No floor space limit
Drinking Water Catchment Map:Not within the drinking water catchmentWatercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Watercourse Map:Not within or affecting a defined watercourseUrban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Groundwater Vulnerability Map:	Ground water vulnerable
Urban Release Area Map:Not within an urban release areaObstacle Limitation Surface Map:No restriction on building siting or construction	Drinking Water Catchment Map:	Not within the drinking water catchment
Obstacle Limitation Surface Map: No restriction on building siting or construction	Watercourse Map:	Not within or affecting a defined watercourse
	Urban Release Area Map:	Not within an urban release area
Additional Permitted Uses Map: No additional permitted use applies	Obstacle Limitation Surface Map:	No restriction on building siting or construction
	Additional Permitted Uses Map:	No additional permitted use applies

These matters are addressed in detail in the body of this report.

Part 2 - Permitted or Prohibited Development

Land Use Zones

The subject site is located within the R1 – General Residential zone. The proposed development is defined as a residential care facility under OLEP 2011. Pursuant to the dictionary contained within OLEP 2011 a residential care facility means:

accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

but does not include a dwelling, hostel, hospital or psychiatric facility.

Note. Residential care facilities are a type of **seniors housing** - see the definition of that term in this Dictionary.

As mentioned above, residential care facilities are a type of seniors housing. Seniors housing is permissible in the R1 – General Residential zone with the consent of Council, or this case the Western Region Joint Regional Planning Panel.

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

1 - Objectives of the R1 General Residential Zone

- 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 development is consistent with the objectives of the zone.

Clause 2.6 - Subdivision - Consent Requirements

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

Clause 2.6 - Subdivision - Consent Requirements (cont)

No subdivision is proposed, however, the applicant is required to consolidate the adjoining property to the west, being Lot 1 DP 955656 and Lot 1 DP 308157, with Lot 10 DP 1015171 as development is proposed over an existing boundary. A relevant condition is attached to the notice of consent.

Whilst no formal subdivision is proposed, it is submitted by the applicant that appropriate consideration has been given in terms of maintaining the residential amenity within the curtilage of the property at 28 Byng Street. It was conveyed to the applicant in the initial stages of the assessment that adequate arrangement should be made so as to facilitate a formal subdivision in the future should the owners of the land wish to do so. The applicant advised that the use of the land will continue as a residential use.

Clause 2.7 - Demolition Requires Development Consent

This clause triggers the need for development consent in relation to a building or work. This requirement does not apply to any demolition that is defined as exempt development.

The proposal involves demolition of the existing aged care facility, administration offices and shed/carport. The applicant is seeking the consent of Council. The demolition works proposed will not have an unreasonable or significant impact on adjoining land, streetscape or public realm. Conditions have been imposed in relation to the demolition.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 5 - Miscellaneous Provisions

5.10 - Heritage Conservation

As mentioned above, the subject land contains an item listed on the State Heritage Register and a Heritage Item of State significance under OLEP 2011, being "Berrilea" mansion, the stables, tank stand and curtilage. As a result of the listed heritage item on the land the development is defined as a nominated integrated development. General Terms of Approval have been received by Council from the NSW Heritage Branch and will form part of the draft notice of determination. The subject land is also located in a Heritage Conservation Area. Consideration in detail has been undertaken in relation to the provisions of OLEP 2000, notwithstanding consideration of Orange LEP 2011, and the relevant provision therein is warranted.

5.10 - Heritage Conservation (cont)

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Orange,
- (b) to conserve the heritage significance of heritage items and Heritage Conservation Areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The development is consistent with the above objectives.

(2) Requirement for Consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a Heritage Conservation Area,
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a Heritage Conservation Area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 - (i) on which a heritage item is located or that is within a Heritage Conservation Area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

The development involves demolition upon land identified as a heritage item and within a Heritage Conservation Area for which the applicant is seeking development consent through this application. It is noted that no demolition is proposed to Berrilea mansion, stables or tank stand.

5.10 - Heritage Conservation (cont)

(3) When Consent Not Required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the Heritage Conservation Area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or Heritage Conservation Area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

Development consent is required – the above provision is not relevant to the assessment.

(4) Effect of Proposed Development on Heritage Significance

The consent authority must, before granting consent under this clause in respect of a heritage item or Heritage Conservation Area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

This is addressed above in the consideration of the provisions pertaining to heritage listed in OLEP 2000.

5.10 - Heritage Conservation (cont)

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a Heritage Conservation Area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or Heritage Conservation Area concerned.

As mentioned above, preliminary heritage advice was sought from Council's Heritage Advisor in the initial stages of the assessment of the development, specifically relating to the extent of assessment of the heritage significance of the site that would be required. It was advised that a Heritage Impact Statement should be provided as a minimum and that a Conservation Management Plan or a thorough Conservation Management Strategy be prepared, and that this could form a condition of consent. A relevant condition is attached requiring a CMP to be prepared prior to the issue of a Construction Certificate.

(6) Heritage Conservation Management Plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

Refer above.

(7) Archaeological Sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <u>Heritage Act 1977</u> applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

The subject land is not anticipated to contain any relics or form an archaeological site. Notwithstanding that, a condition imposed by the NSW Heritage Branch's General Terms of Approval relate to this provision and form part of the draft notice.

5.10 - Heritage Conservation (cont)

(8) Aboriginal Places of Heritage Significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

The site is not a known place of Aboriginal significant heritage. A General Terms of Approval condition relates to the above clause and forms a condition of consent which is attached to the draft notice.

(9) Demolition of Nominated State Heritage Items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

No demolition is proposed to the State registered heritage item. Notwithstanding, General Terms of Approval have been sought from the NSW Heritage Branch in accordance with the legislated requirements relating to integrated development.

(10) Conservation Incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

5.10 - Heritage Conservation (cont)

- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

This is not relevant as the proposed development is permissible in the zone under Orange LEP 2000, Orange LEP 2011and State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004.

Part 6 - Urban Release Area

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

Part 7 - Additional Local Provisions

7.1 - Earthworks

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

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

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

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

The site is not known to be contaminated. This is supported by the submitted contamination report.

25 June 2012

Part 7 - Additional Local Provisions (cont)

7.1 – Earthworks (cont)

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

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

The site is not in proximity to any waterway, drinking water catchment or sensitive area. Conditions are imposed to require a sediment control plan.

7.2 - Flood Planning

This clause applies to land identified on the Flood Planning Map as a Flood Planning Area and requires that, before any consent is issued, Council must be satisfied that the proposal:

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The subject land contains an overland flood path across the centre of the site. Conditions have been attached in relation to the overland flowpath, stormwater design and the requirement for onsite detention. In this regard the proposed development is unlikely to change flooding regimes on or off the site and would be unlikely to cause or contribute to erosion, siltation or reduce riparian vegetation, and is therefore unlikely to create a cost burden on the community or neighbours.

Part 7 - Additional Local Provisions (cont)

7.3 - Stormwater Management

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

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

The proposal has been designed to include permeable surfaces and includes onsite retention of stormwater. Relevant conditions are attached. It is therefore considered that the post development runoff levels will not exceed the predevelopment levels.

7.6 - Groundwater Vulnerability

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

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

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

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

The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The subject land contains an existing bore which has basic rights approval through the NSW Office of Water. The use of the bore is considered an appropriate ESD alternative to town water. The design and siting of the proposal has sought to avoid impacts on groundwater and is therefore considered acceptable.

STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the subject development. The applicant has nominated the State Planning Policy (Housing for Seniors or People with a Disability) 2004 as the principle instrument used in the assessment of the application. As such, the following is provided in consideration of the development.

2 - Aims of Policy

- This Policy aims to encourage the provision of housing (including residential care (1) facilities) that will:
 - increase the supply and diversity of residences that meet the needs of seniors or (a) people with a disability, and
 - (b) make efficient use of existing infrastructure and services, and
 - (C) be of good design.
- (2) These aims will be achieved by:
 - setting aside local planning controls that would prevent the development of (a) housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and
 - setting out design principles that should be followed to achieve built form that (b) responds to the characteristics of its site and form, and
 - ensuring that applicants provide support services for seniors or people with a (C) disability for developments on land adjoining land zoned primarily for urban purposes.

With consideration of the conditions of consent it is determined that the development is consistent with the aims of the policy.

4 - Land to Which Policy Applies

1 - General

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

- development for the purpose of any of the following is permitted on the land: (a)
 - (i) dwelling-houses,
 - (ii) residential flat buildings,
 - (iii) hospitals,
 - development of a kind identified in respect of land zoned as special uses, (iv) including (but not limited to) churches, convents, educational establishments, schools and seminaries, or
- (b) the land is being used for the purposes of an existing registered club.

State Environmental Planning Policies (cont)

The land is zoned 2(a) Urban Residential pursuant to OLEP 2000 and R1 - General Residential Pursuant to Orange LEP 2011. The objectives of the zone indicate that the land is zoned primarily for urban purposes and is consistent with the identified purposes listed in 1(a) above.

Chapter 2 - Key Concepts

8 - Seniors

In this Policy, **seniors** are any of the following:

- people aged 55 or more years, (a)
- people who are resident at a facility at which residential care (within the meaning of the (b) Aged Care Act 1997 of the Commonwealth) is provided,
- (C) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

9 - People with a Disability

In this Policy, **people with a disability** are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

10 - Seniors Housing

In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or
- a group of self-contained dwellings, or (C)
- a combination of these, (d)

but does not include a hospital.

Note. The concept of seniors housing is intended to be a shorthand phrase encompassing both housing for seniors and for people with a disability. This Policy deals with both kinds of housing.

Accommodation provided by seniors housing does not have to be limited to seniors or people with a disability. Clause 18 provides that seniors housing may be used for the accommodation of the following:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability.
- (C) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

State Environmental Planning Policies (cont)

10 - Seniors Housing

Relevant classifications in the Building Code of Australia for the different types of residential accommodation are as follows:

- (a) Class 3, 9a or 9c in relation to residential care facilities,
- (b) Class 1b or 3 in relation to hostels,
- (c) Class 1a or 2 in relation to self contained dwellings.

11 - Residential Care Facilities

In this Policy, a **residential care facility** is residential accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hostel, hospital or psychiatric facility.

Note. The <u>Aged Care Act 1997</u> of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.

The proposed development is consistent with the above key concepts.

Part 1A - Site Compatibility Certificate

The development does not require a site compatibility certificate.

Part 2 - Site-Related Requirements

26 - Location and Access to Facilities

- A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:
 - (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
 - (b) community services and recreation facilities, and
 - (c) the practice of a general medical practitioner.

In relation to the above, the development is on the outer fringe of the Orange Central Business District. The site is considered to be suitably located to be within close proximity to the types of facilities listed above.

State Environmental Planning Policies (cont)

26 - Location and Access to Facilities (cont)

- (2) Access complies with this clause if:
 - (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:
 - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
 - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
 - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or
 - (b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division - there is a public transport service available to the residents who will occupy the proposed development:
 - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
 - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
 - (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or
 - (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division - there is a transport service available to the residents who will occupy the proposed development:
 - *(i)* that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
 - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
 - (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

State Environmental Planning Policies (cont)

26 - Location and Access to Facilities (cont)

In relation to 2 above, it is considered that the facilities referred to in 26(1) above can either be accessed via the existing and proposed paths within the site or existing pedestrian arrangements outside of the site. The applicant submits that appropriate transport services will be provided in accordance with subclause 26(2)(c) to those facilities that fall outside of the 400m radius. A relevant condition is attached requiring transport facilities to be provided in accordance with 26 (2)(c) of the SEPP

- (3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:
 - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
 - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
 - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

The applicant submits this is achieved. Notwithstanding a condition is attached requiring all paths to be in accordance with clause 26 (3) of the SEPP.

- (4) For the purposes of subclause (2):
 - (a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and
 - (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

Noted.

(5) In this clause:

bank service provider means any bank, credit union or building society or any post office that provides banking services.

Noted.

27 - Bush Fire Prone Land

The subject land is not identified as being bush fire prone land.
State Environmental Planning Policies (cont)

28 - Water and Sewer

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.
- (2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.

Adequate provisions have been made in terms of water and sewer. Relevant draft conditions are attached.

29 - Consent Authority to Consider Certain Site Compatibility Criteria for Development Applications to Which Clause 24 Does Not Apply

(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.

Note. Clause 24 (1) sets out the development applications to which that clause applies.

(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25(5)(b)(i),(iii) and (v).

25 Application for site compatibility certificate

- (5) The Director-General must not issue a site compatibility certificate unless the Director-General:
 - (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:
 - (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision
 - (v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.

State Environmental Planning Policies (cont)

29 - Consent Authority to Consider Certain Site Compatibility Criteria for Development Applications to Which Clause 24 Does Not Apply (cont)

In relation to 25(5)(b)(i) above, the development site is not subject to known natural resources, hazards or significant environmental value in terms of flora and fauna. The development is considered to have significant heritage value, both to the Heritage Conservation Area and the State registered heritage item. This is discussed in detail above. The site is essentially a continuation of the existing use of the land with a minor intensification resultant of an additional six beds. It is considered that the existing use is compatible and non-conflicting with the adjoining residential uses.

In relation to 25(5)(b)(iii) above, given the location of the development on the fringe of the CBD and the minor intensification of the existing use, it is considered that the existing infrastructure and services will be adequate to meet the needs of the development.

In relation to 25(5)(b)(v) above, this is discussed extensively under the headings LEP 2000 and DCP 2004, and it is appropriate to do so given clause 3 below. Appropriate conditions are attached in response to those considerations.

(3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.

Further matters outside of this clause are considered within the report.

Division 1 - General

30 - Site Analysis

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.

A suitable site analysis plan has been submitted in support of the application.

Division 2 Design principles

33 - Neighbourhood Amenity and Streetscape

The proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and
- (b) retain, complement and sensitively harmonise with any Heritage Conservation Areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and

State Environmental Planning Policies (cont)

33 - Neighbourhood Amenity and Streetscape (cont)

- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:
 - (i) providing building setbacks to reduce bulk and overshadowing, and
 - (ii) using building form and siting that relates to the site's land form, and
 - (iii) adopting building heights at the street frontage that are compatible in scale with

adjacent development, and

- (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and
- (f) retain, wherever reasonable, major existing trees, and
- (g) be designed so that no building is constructed in a riparian zone.

The above is addressed extensively under the heading Local Environmental Plan 2000.

34 - Visual and Acoustic Privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

Note. The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics -Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled" AS 3671 - 1989, Acoustics - Road traffic noise intrusion -Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.

As discussed below, the development is considered acceptable in terms of visual privacy. The proposal utilises screening devices along the western facing windows to alleviate potential visual privacy impacts to adjoining properties to the west. Existing fencing and landscaping will further reduce potential impacts. Relevant draft conditions are attached.

The design and siting of the proposed bedrooms are considered acceptable. The applicant submits that construction materials will consist of double glazed windows and insulated masonry construction, which will assist with reducing potential impacts.

State Environmental Planning Policies (cont)

35 - Solar Access and Design for Climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.

Note. AMCORD: A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.

It is acknowledged that the existing buildings and vegetation on the site present some constraints in terms of orientation of windows. It is considered that appropriate design and siting is provided and the design is acceptable in terms of solar access. The submitted shadow diagrams demonstrate compliance in terms of adjoining properties. As mentioned above adequate, ESD principles have been implemented.

36 - Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semipervious material, minimising the width of paths and minimising paved areas, and
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.

Suitable arrangements and draft conditions have been considered and attached in relation to stormwater.

37 - Crime Prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

State Environmental Planning Policies (cont)

37 - Crime Prevention (cont)

The applicant submits that suitable consideration has been given to the Crime Prevention through Environmental Design model. It is considered that the design is acceptable in terms of crime prevention through:

- the retention of boundary fencing and landscaping to provide a level of territorial reinforcement
- the siting of the building around the perimeter to allow passive surveillance of communal areas, eliminating the potential for dead ends around the development
- adequate entrances to the site and building are easily identifiable and open to reduce "entrapment" scenarios and
- pathways will be safe and secure.

In addition to the above the applicant submits that the following will assist with increasing the security of the site:

- In order to maintain a safe level of visibility for pedestrians within the development, adequate lighting is to be provided in accordance with the relevant Australian Standards to all common areas and accessways. Such lighting should be installed and directed in such a manner so as to ensure that no nuisance is created for the surrounding properties or to drivers on surrounding streets.
- Landscaping design and lighting should be co-ordinated together to ensure they collaboratively provide a safe place, particularly during the evenings.
- We would also recommend all doors that give external access the respective buildings are adequately secured.
- Adequate directory signage is to be provided within the development to identify facilities, entry / exit points and direct movement within the development.
- All medical stores must be locked with access restricted to nominated personnel/ staff of the facility.

The above commentary is considered a positive to the functionality and safety of the development, and it is agreed that such measures should form a condition of consent. As such, a condition is attached requiring the five additional measures under the heading 'Crime Prevention' on page 42 of the submitted Statement of Environmental Effects dated February 2012 to be implemented into the design of the development. The measures are required to be shown on the submitted plans prior to the issue of a Construction Certificate.

State Environmental Planning Policies (cont)

38 - Accessibility

The proposed development should:

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.

As established above the applicant submits that the provisions relating to accessibility both inside and outside of the site are achieved. A relevant condition is attached in relation to accessibility and transport as outlined above.

39 - Waste Management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

The applicant submits that suitable arrangements will be made in terms of the disposal and collection of waste. As mentioned above, the revised proposal at the rear of Berrilea will require the waste collection area to be located in the northern car park area only (as opposed to the Summer Street access as well). The location of the proposed refuse collection is considered to be appropriately separated from the adjoining property so as to reduce potential impacts. Conditions are attached in relation to providing screening to the bin enclosure and appropriate collection times.

Division 1 – General

40 - Development Standards - Minimum Sizes and Building Height

(1) - General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) - Site Size

The size of the site must be at least 1,000 square metres.

The applicant submits that whilst this clause does not apply by virtue of clause 40(5), the subject site is 16,708m² and thus complies with the above.

State Environmental Planning Policies (cont)

(3) - Site Frontage

The site frontage must be at least 20 metres wide measured at the building line.

As outlined above, this does not apply by virtue of clause 40(5). Notwithstanding, the applicant submits that the two frontages concerned with the site consist of at least 60m. The development is therefore consistent with the above.

(4) - Height in Zones where Residential Flat Buildings are Not Permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

The proposed development is located in an area where residential units are permissible. Orange LEP 2000 does not specifically define a residential flat building. Notwithstanding, it is agreed that *residential units is comparable to what constitutes a residential flat building*. It is further noted that the term residential flat building is derived from the standard instrument. Council has recently had gazetted the standard instrument template as Orange LEP 2011. under that plan residential flat buildings are permissible in the R1 – General Residential zone. In this regard, whilst it is acknowledged that House "D" exceeds 8m and is greater than two storeys in parts, the development is considered to meet the requirements that would preclude subclause (4) from applying.

(5) - Development Applications to which Clause does Not Apply

Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:

- (a) the Department of Housing,
- (b) any other social housing provider.

As mentioned above, the applicant submits that the proponents are a social housing provider. Therefore, the above clauses do not apply. Notwithstanding, the development does comply with the above.

State Environmental Planning Policies (cont)

48 - Standards that Cannot be Used to Refuse Development Consent for Residential Care Facilities

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:

- (a) **building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or
- (b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,
- (c) **landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,
- (d) parking for residents and visitors: if at least the following is provided:
 - (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and
 - (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
 - (iii) 1 parking space suitable for an ambulance.

Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.

The applicant submits that a consent authority must not refuse consent to a development application made pursuant to this chapter for the carrying out of the development for the purposes of a residential care facility on any of the above ground. However, clause 47 is contrary this claim which states:

47 - Part Does Not Apply to Certain Development Applications Relating to Heritage Affected Land

Nothing in this Part applies in relation to the granting of consent to a development application made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the <u>Heritage Act 1977</u>applies.

Notwithstanding clause 47, the development is considered compliant with the provisions of clause 48 excepting the building height. As mentioned above the development, specifically house "D" exceeds 8m and is greater than two storeys. However, this element is considered acceptable as discussed elsewhere in this report.

In terms of (b) above, the applicant submits that the proposal results in and FSR of 0.66:1.

In terms of (c) above, the applicant submits that pursuant to (c) above the development requires $4,150m^2$ of landscaping. The total proposed landscaped area of the development is $11,765m^2$. This equates to approximately $70m^2$ per bed, well above the prescribed area.

State Environmental Planning Policies (cont)

48 - Standards that Cannot be Used to Refuse Development Consent for Residential Care Facilities (cont)

In relation to onsite car parking, as mentioned above it is recommended that the panel accept a variation in terms of the car parking around the curtilage of the heritage item. The revised plan (DA1000) shows the existing car park arrangement providing 11 spaces.

The development generates the following on-site parking requirements:

16.6 spaces attributed to the 166 residential care beds,

28 spaces for the total of 46 staff

Total = 44.6 spaces (or a realistic total of 45 spaces)

The submitted plans indicate the provision of 47 onsite spaces. The development is therefore compliant with the onsite parking provisions.

Given the surplus of two spaces and the recommendation for the JRPP to accept a variation in terms of on-site parking, as mentioned above it is considered prudent to attach a condition to remove three of the existing parking spaces within the curtilage of the Berrilea mansion. The three subject parking spaces are identified as follows; the single angled space located adjacent to the southwest side of the existing raised garden bed, the parking space adjacent to the eastern elevation of Berrilea and the southernmost parking space located along the eastern boundary south of the stables. The purpose of this recommendation is twofold, firstly to improve the practicality of this area in terms of entering the subject spaces, manoeuvring, and access around the Berrilea Mansion, and secondly, to allow a more sympathetic approach to the heritage items and to allow a greater amount of area to be reinstated with landscaping. As mentioned above it is recommended that the JRPP allow a level of flexibility in terms of on-site parking to facilitate the above. A relevant condition is attached to the Notice of Approval.

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

Development Control Plan 2004 ("the DCP") applies to the subject land (*Part 00 - Local Environmental Plan 2004, Part 7 - Development in Residential Areas, Part 13 - Heritage* and *Part 15 - Car Parking*). An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below.

Part 0 Local Environmental Plan 2011

Part 0.2 General Translation of Zones

Part 0.2 of DCP 2004 establishes a conversation table for old zones (under OLEP 2000) to new zones under LEP 2011, and in turn provides which chapters of the DCP that are applicable in instances of new zonings under LEP 2011. This is pertinent given the subject land's new zoning, being R1 – General Residential. The conversion table therefore establishes that Part 7 of Orange DCP 2004 is applicable to the zone.

Tree Preservation (LEP 2011 Clause 5.9)

Pursuant to LEP 2011 a tree preservation order exists on the subject land. A number of the subject trees are prescribed by virtue of the trunk girth of certain subject trees. The applicant has suitably addressed the requirements of the tree preservation order. Therefore, consent/permit will be granted as part of this development application to remove the subject trees, excepting where specific draft conditions are attached in relation to retention or replacement of specific trees.

A tree protection zone will be required to be established around the tree identified as T16 on plan no LA01 issue F. A condition is attached in this regard.

Part 7 - Development in Residential Areas

Neighbourhood Character and Building Appearance

Byng Street Assessment

The neighbourhood is characterised by an established residential precinct considered to be of a high level of residential amenity. The Byng Street frontage component of the development is discussed in detail above. As mentioned above options have been presented for the panel's consideration. A preferred option has been attached as a condition attached to the Notice of Approval.

In terms of the proposed buildings external finishes, the applicant originally proposed to construct the proposed buildings using a Sydney blue face brick. Council's Heritage Advisor indicated that a more traditional brick should be selected, a brick more typical of the area, providing a Mudgee brown brick as an example being more typical for the Orange area. The applicant has since amended the proposal in light of Council's staff correspondence to use a Bowral brown brick and a blue brick. Physical samples were requested to be provided by the applicant. Upon receipt of the physical samples Council staff are not satisfied that the selected finishes are appropriate for the development within the heritage conservation area. A relevant condition is attached requiring approval of finishes prior to the issue of a CC.

Neighbourhood Character and Building Appearance (cont)

Summer Street Assessment

The southern boundary of the site which addresses Summer Street presents an equally high level of residential amenity within the established residential precinct to that of the northern boundary of the subject land. However, the neighbourhood character of the southern boundary differs slightly to that of the northern boundary by virtue of a highly valued and locally listed heritage item (being Cook Park located opposite) and the locally listed heritage item, "Craigielee" house located to the west of the subject land. (Refer Image 1 below).



Location of heritage items – Orange LEP 2000

An assessment of the impact to the heritage significance of the heritage item on the subject land, the impact to the heritage items in the vicinity and the impacts to the Heritage Conservation Area resulting from the removal of the tree identified as T13 in the Taylor Brammer (plan no. LA01 issue F) was undertaken and is discussed in detail above. Relevant conditions are attached requiring the replacement of T13 with an appropriate specimen, the reinstatement of the landscape garden within the curtilage of the heritage items and the preparation of a CMP.

Heritage

- Heritage buildings and structures are efficiently re-used.
- New development complements and enhances the significance of a heritage item or place of heritage significance listed in the Orange Heritage Study.
- Significant landscape features are retained including original period fences and period gardens.

A detailed assessment pertaining to heritage consideration has been provided above.

Setbacks

Summer Street Assessment

The applicant does not seek to alter the existing southern boundary, front setbacks that address Summer Street. Therefore, considerations relating to front setbacks along the southern boundary are not warranted.

Byng Street Assessment

Consideration of the proposed setback which addresses Byng Street has been considered above. Options have been present and a preferred relevant condition is attached.

Fences and Walls

No front fences are proposed. The applicant submits that the existing front fences on the site are to be retained. It is also submitted that all other existing timber fencing is to be retained.

Visual Bulk

The development presents a minor encroachment of the prescribed visual bulk envelopment (VBE). VBEs are calculated by projecting a 45° plane over the subject building from a point measured at 2.5m above existing ground level from each side and rear boundary. The subject encroachment is identified as a result of the western elevation of proposed House "D". The encroachment is limited to a small portion of eave, roof line and upper wall. The encroachment is considered minimal and will present a negligible impact to the adjoining land to the west. In consideration of the encroachment, a reasonable side setback of 2.82m is proposed for buildings along the western boundary. The identified encroachment will not lead to unreasonable impacts in terms of overshadowing or bulk and scale. The encroachment is acceptable in this instance

Walls and Boundaries

The proposed development is consistent with the requirements of the Building Code of Australia in terms of distances from boundaries.

Daylight and Sunlight

The applicant has submitted shadow diagrams in support of the application. The submitted shadow diagrams suitably demonstrate that the extent of midwinter shadow as a result of development complies with the DCP in terms of overshadowing of adjoining properties. The DCP guidelines in relation to daylight and sunlight requires sunlight to at least 40% of the main area of private open space (on ground level) within the development and on adjoining land is not reduced to less than three hours between 9.00am and 3:00pm on 21 June. The submitted shadow diagrams demonstrate that this is achieved.

Daylight and Sunlight (cont)

The DCP guidelines require sunlight to at least 75% of north facing living areas windows within the development and on adjoining land for a minimum of four hours on 21 June. The development will not reduce sunlight to the north facing windows of adjoining properties. The development is compliant in this regard.

In terms of sunlight internally within the development, it is acknowledged that the above does not specifically apply to development of this type. It is further noted that site constraints prevailing from the location of retained buildings, vegetation etc result in the majority of bed and habitable rooms having an east or west orientation. Notwithstanding, it is submitted by the applicant that: an appropriate level of solar access is achieved to these habitable rooms, three hours (3) during midwinter. This is discussed further in consideration of the SEPP provisions. The development is considered acceptable in terms of the above requirements.

Views

The development is not likely to affect any prominent or significant views of adjoining or adjacent properties.

Visual Privacy

The development is considered acceptable in terms of visual privacy impacts to adjoining properties, particularly the adjoining properties along the western boundary of the site. The applicant submits the following in support of the application:

Various site planning considerations and design measures have been incorporated into the proposed development to ensure that visual privacy impacts for the subject site and for adjoining sites are mitigated. Such measures include:-

- No balconies are proposed,
- The rear setbacks of the dwelling to the west of the site and the setbacks of the proposed development to the western site boundary result in appropriate separation distances between the buildings,
- The west facing windows of the proposed building will have a 400mm deep vertical screen feature to mitigate any potential for overlooking to the adjoining residential dwellings to the west,
- The west facing windows have also been off-set from windows of residential dwellings to the west of the site; and
- The 1.8 metre high existing perimeter fencing in conjunction with the existing site boundary landscaping will provide an additional level of privacy for the subject site and those residential dwellings that abut the site to the west.

The above provides suitable measures to mitigate against unreasonable impacts in terms of visual privacy. A condition is attached in relation to the proposed privacy screening and existing landscaping.

Security

Suitable arrangements are proposed in terms of the security of the residents within the site. Consideration has been given to the Crime Prevention through Environmental Design model and the measures taken are considered appropriate. This is discussed further in response to the SEPP provisions above.

Circulation Design

The SEPP considerations provide details of the access arrangements internally within the site. Refer to relevant assessment within the SEPP.

Car Parking

An assessment of the onsite parking requirements has been undertaken above pursuant to the requirements of the SEPP (Housing for Seniors or People with a Disability) refer to the assessment of the requirements of that SEPP for onsite parking.

Stormwater

Adequate provision for stormwater is proposed. Relevant draft conditions are attached.

Erosion and Sediment Control

A draft condition is attached requiring a copy of the soil and water management plan to be kept onsite at all times and made available to Council officers on request.

Part 13 - Heritage

Relevant heritage considerations are addressed in detail throughout the report.

Part 15 - Car Parking

Refer to the SEPP (Housing for Seniors of People with a Disability) 2004 discussion on car parking.

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

Demolition of a Building (clause 92)

The proposal involves the demolition of the buildings as described above and detailed on plan DA100 Issue T. A condition is attached requiring the demolition to be carried out in accordance with Australian Standard AS2601 - 1991; The Demolition of Structures.

Fire Safety Considerations (clause 93)

An assessment has been undertaken by Council staff who have advised that the development should be able to comply with the BCA, and it is noted that a relevant report has been submitted in support of the development. Notwithstanding, relevant conditions are attached.

Buildings to be Upgraded (clause 94)

Upgrading of the proposed community building and Clancy Weston Lodge will be required to ensure the existing buildings are brought into partial or total conformity with the BCA. Conditions are attached in relation to the required upgrading works.

BASIX Commitments (clause 97A)

BASIX requirements do not apply to the development. The new building work will, however, require compliance with section J of the BCA. It is noted that a relevant report has been submitted in support of the development application which indicates that compliance can be achieved.

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

Context and Setting

The likely impacts on the context and setting of the area are addressed throughout the report. It is considered that the likely impacts to the context and setting of the proposed development will be appropriately ameliorated through the design and in conjunction with the recommended draft conditions of consent.

Visual Impacts

The likely visual impacts, particularly the Byng Street frontage, have been addressed in detail above.

Traffic Impacts

The development is not likely to present any unreasonable impacts in terms of traffic. The development is well serviced by the existing public road network and has practical and legal access through the existing accesses to Summer Street and Byng Street. The proposed upgrade of the access, parking and hardstand area to the north of the site will facilitate improved internal circulation for the development. As mentioned above it is recommended that the landscape setting be reinstated to the curtilage of the heritage item. As such, the existing access arrangements from Summer Street will remain largely unchanged.

Noise Impacts

A degree of noise is expected during the demolition and construction phases of the development. However, conditions are attached to the draft notice of determination stipulating appropriate demolition and construction times.

Ongoing operational noise is likely to occur during deliveries and collections onsite. A condition is attached to the Notice of Approval requiring all deliveries and collections on the site to occur between 7am and 6pm, Monday through to Saturday only.

Cumulative Impacts

Council in determining the application is required to consider the likely cumulative impacts of the development. It is acknowledged that the development is effectively a redevelopment and minor intensification of the existing land use that will in turn give rise to a minor increase in such things as:

- number of residents
- staff numbers •
- visitor numbers •
- traffic movements in and around the locality
- deliveries and •
- collections. •

Notwithstanding this, the likely cumulative impacts attributed to the development have been adequately addressed by the applicant or are reduced to reasonable levels through the imposition of relevant conditions on the Notice of Determination. The development is therefore considered reasonable in terms of likely cumulative impacts.

Social and Economic Impacts

The development is likely to present positive social impacts through the redevelopment of an existing facility to provide six additional beds, but perhaps more importantly, new facilities. As mentioned above this is particularly pertinent given the aging population occurring across the country. The development is also likely to provide positive economic impacts through the requirements of additional jobs created by the development through construction and possibly ongoing staffing numbers.

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

It is considered that the proposed development is suitable for the site. All utility services are available to the site and are adequate for the proposal. The site does not contain any known physical, natural or technological hazards which may constrain the site.

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

The proposed development is defined as "advertised 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 one submission was received. In addressing the matters raised in the received submission the following is provided.

The first matters raised in relation to the location of a smoking area and the resultant impacts on the family pet are largely managerial matters that should be raised with the management of the facility. As there is largely minimal development in the vicinity of the submitter's property, this element of the submission is not relevant to the proposed development, it is however noted.

In relation to point 1 of the submission, the large tree identified as T13 within the curtilage of Berrilea is required to be replaced. This is discussed in detail above.

In relation to point 2 of the submission, as discussed above, in light of the revised proposal to keep the car parking arrangements within the curtilage of the heritage item, the waste collection area in this portion of the site is required to be removed from the proposal. All garbage collection will be required to be within the northern car park area.

In relation to point 3 of the submission, as mentioned above, the Summer Street area of the development will remain largely unchanged.

In relation to point 4 of the submission, the applicant proposes to retain the existing fences. This matter falls within the realm of the Dividing Fences Act. It is recommended that this be dealt with as a separate issue as the proposed development will not materially impact further on the condition of the fence.

PUBLIC INTEREST s79C(1)(e)

The proposed development is considered to be of minor interest to the wider public due to the relatively localised nature of potential impacts. The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines, etc that have not been considered in this assessment, excepting where discussed above and appropriately mitigated through the attached recommendations of appropriate conditions of consent.

SUMMARY

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 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, LEP 2000 and LEP 2011. A section 79C assessment of the development indicates that the development is acceptable in this instance. Attached is a Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

COMMENTS

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

Andrew Crump **TOWN PLANNER** enc



Civic Centre, Byng Street Orange NSW 2800 ORANGE

Telephone: 1300 650 511 Facsimile: 02 6393 8199 Email: <u>council@orange.nsw.gov.au</u>



Issue Date 11/7/2012

Locality Map

Disclaimer

The Information shown hereon is as accurate as council records permit. Council takes no responsibility for errors or omissions and the location of all services is subject to verification by survey.



1 SITE ANALYSIS PLAN







SUMMER STREET



ABBREVIATIONS: BIRCH. BOHAL SYDNEY BLUE BIRCH. EXISTING WEATHERCARD CLADDING HARCWOOD COLORIDOLD METAL ROOP SHEET WINDOW -----

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PROJECT WONTAMA REDEVELOPMENT DRAWING TITLE SITE DEMOLITION PLAN

E sydeey@lacksontexc.nnm Jackson Tesce Chestermen WBe Pty Ltd Trading as Jackson Tesce ASN 15 065 837 290 Nominated Architect tan Brodia (4275) JACKSON TEECE

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Jackson Teece ArcNiecture Lot I, Pier 8-9, 23 Hickson Road Sydney New South Wales 2000 Australia T 61 2 9290 2722 F 61 2 9290 1150 E sudnav@lachaonteece.com


























































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WONTAMA REDEVELOPMENT 30-38 BYNG STREET, ORANGE NSW DRAWING TITLE SUMMER STREET AMENDED DRIVEWAY

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 SUMMER STREET DRIVEWAY AMENDED PLAN 1:200

JACKSON TEECE



PROJECT WONTAMA REDEVELOPMENT 30-38 BYNG STREET, ORANGE NSW DRAWING TITLE CLANCY WESTON DEMOLITION PLAN

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Jackson Teece Architecture Lot 1, Pier 8-9, 23 Hickson Road Wallsh Bay Sydney New South Wales 2000 Australia T 61 29260 2722 F 61 29250 1150 E sydney (Backonteeoa.com Jackson Teece Chesterman Willis Pty Ltd AbN 15 008 307 200 Nominated Architect Ian Brodie (4275)

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Jackson Teece Architecture Lot 1, Pier 8-9, 23 Hickson Road Watch Bay Sydnay New Kouth Wates 2000 Australia T 61 29250 2722 F 61 29250 1150 E sydnay@lacksonteeco.com Jackson Teece Comman Willis Pty Ltd Aba 15 00 837 250 Nominated Architect Ian Brodie (4275)

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DATE SCALE @ A1 DRAWN CDS 06/07/12 1:100 PROJECT NUMBER DRAWING NUMBER ISSUE

DA 1003 2010160



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PERSPECTIVE 1: AERIAL VIEW FROM BYNG STREET ENTRY

JACKSON TEECE









Mr AM & Mrs JA Kerrigan

Bruff

31 Summer Street

(PO Box 2208)

ORANGE NSW 2800

1st May, 2012

Mr Allan Renike

Manager Development Assessments

Orange City Council

PO Box 35

ORANGE NSW 2800

Orange City Council - 3 MAY 2012 ntainer No

Dear Mr Renike

Re: Regarding proposed development in Wontama, Summer St Orange

Reference DA 27/2012(1) – PR18113

We write following reviewing the proposed development at Council Chambers and as a neighbour to the development at 31 Summer St Orange

We wish to acknowledge the excellent services provided to the aged and disabled by Wontama Retirement Village. We acknowledge the need of the service to develop their facility to meet the needs of these people and provide state of the art care.

We also write as to a previous redevelopment of Wontama about 2002. In this redevelopment balconies were built overlooking our backyard which were not apparent to us on the information night, a "smoking" area immediately adjacent to our back fence was "created" in a previously unused section of garden and a new car park replaced a garden by our side fence. We had a German Shepherd at the time and the changed environment significantly affected her sense of security and a previously quiet dog became rather raucous and resulted in quite a few complaints of noise from her barking at perceived threats to her territory by Wontama residents. It seemed to us that the "smokers" may have developed a game to encourage our dog's response. We would like an assurance that this development won't similarly affect our enjoyment of our property. Factors noted when reviewing the current application with Council include:

- 1. At least 1 of the trees for removal contributes signicantly to natural landscape of the precinct and to the streetscape which integrates and enhances the environment of Cook Park.
- 2. The proposed garbage facility will be within 10 m of a bedroom in our property and there is no indication of any noise abatement or control.
- 3. The traffic plan for Summer St is not clear to us and we are not sure that the width of the existing exit drive will be sufficient. We note that while all other surrounding properties are included in photos in the submission, our property and the driveway is not.
- 4. The fence which is seriously dilapidated is to have climbers planted. This will not be satisfactory (or possible). We are happy to discuss with Wontama this option.

Thank you

Allan Kerrigan & Julie Kerrigan



ORANGE CITY COUNCIL

Development Application No DA 27/2012(1)

NA12/450

Container PR18113

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the Environmental Planning and Assessment Act 1979 1)

(

Development Application	
Applicant Name:	Pure Projects Pty Ltd
Applicant Address:	Level 4, 4 Glen Street Milsons Point NSW 2061
Owner's Name:	The Uniting Church in Australia Property Trust (NSW)
Land to Be Developed:	Lot 10 DP 1015171, Lot 1 DP 955656 and Lot 1 DP 308157 – 28 and 30-38 Byng Street, Orange (also known as 27-29 Summer Street, Orange)
Proposed Development:	Housing for aged or disabled persons (Demolition, additions and alterations to existing buildings)
Building Code of Australia building classification:	 To be determined by the Principal Certifying Authority
Determination	-
Made On:	6 August 2012
Determination:	CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:

Consent to Operate From: Consent to Lapse On:

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.
- To ensure the utility services are available to the site and adequate for the development. (6)
- To prevent the proposed development having a detrimental effect on adjoining land uses. (7)
- (8) To minimise the impact of development on the environment.

Conditions

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

(a) Plan/s numbered Project no. 2010160: - DA001 Issue P; DA002 Issue P; DA003 Issue N: DA100 issue T; DA110- A issue T; DA110-B issue T; DA111-A issue T; DA111-B issue T; DA112 Issue T DA114 issue O; DA130 issue P; DA131 issue P; DA170 issue P; DA300 issue Q; DA400 issue Q; DA401 issue P; DA402 issue P; DA403 issue Q; DA404 issue R; DA500 issue P; DA501 issue P; DA502; DA503; DA504; DA505; DA910 issue P; DA911 issue P; DA912 issue P; DA913 issue P; DA1000; DA1001; DA1002; DA1003 Perspective 1; Perspective 2 and Perspective 3.

Job No. 11-043s: - LA01 issue F and LA02 issue E

(condition (1) continued over the page)

Conditions (cont)

- (1) (cont)
 - (b) statements of environmental effects or other similar associated documents that form part of the approval

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as amended in accordance with any conditions of this consent.

PRESCRIBED CONDITIONS

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (4) A Conservation Management Plan (CMP) shall be prepared for the subject land prior to the issue of a construction certificate. The CMP shall provide a particular emphasis towards the State Heritage Register listed items and provide guidance towards reinstating the landscape setting to the curtilage of the Berrilea Manson, particularly the rear area of the Berrilea Mansion as well as the curtilage around the stables and tank stand.
- (5) A redesign of House A shall be undertaken to provide for a setback of the western half of house A to be consistent with the setback of number 28 Byng Street. Revised plans shall be submitted showing the increased setback of the western half of house A being consistent with number 28 Byng Street for the approval of Council's Manager Development Assessments prior to the issue of a Construction Certificate.
- (6) The verandah along the north elevation of house A shall be at least 1000mm in width measured from the north elevation wall of house A to the centre line of the verandah posts.
- (7) Additional landscaping shall be provided in the area of the increased setback in front of House A. A plan shall be provided showing additional landscaping in the frontage of House A in the area of the increased setback for the approval of Councils Manager Development Assessments prior to the issue of a construction certificate.
- (8) The five additional measures under the heading 'Crime Prevention' on page 42 of the submitted Statement of Environmental Effects dated February 2012 shall be implemented into the design of the development. The measures are required to be shown on the submitted plans prior to the issue of a Construction Certificate.
- (9) Visual screening shall be provided around the refuse collection area within the northern car park. The screening shall be shown on the plans prior to the issue of a construction certificate.

Conditions (cont)

Prior to the issue of a construction certificate (cont)

- (10) The external brick finish of House "A" shall be complementary to the traditional Orange sandstock brick that is predominant with the Central Heritage Conservation Area. The schedule of external finishes shall be submitted for the approval of Council's Manager Development Assessment prior to the issue of a Construction Certificate.
- (11) The small entry pavilion within the northern entry in between the driveway and House A shall be deleted from the development. The small entry pavilion shall be deleted from the plans prior to being submitted with the application for a construction certificate.
- (12) The existing large Ash tree identified as T13 on approved plan no LA01 shall be replaced with an appropriate tree species within a new garden bed in the same location. The new tree and garden bed shall be appropriate within the heritage context and be suitable for the effective growth of that tree. A plan showing the location of the tree, the tree species and the garden bed is to be submitted for the approval of Council's Manager Development Assessment prior to the issue of a Construction Certificate.
- (13) The single angled space located adjacent to the south-western side of the existing raised garden bed at the rear of the "Berrilea" mansion, the parking space adjacent to the eastern elevation of Berrilea Mansion and the southernmost parking space located along the eastern boundary south of the stables as shown on plan number DA100 shall be deleted. The area of the deleted spaces shall form part of the reinstated landscape setting as required in condition (56). Details of the revised parking, driveway and landscaped layout shall be submitted for the approval of the Manager Development Assessments prior to the issue of a construction certificate.
- (14) A Construction Certificate application is required to be submitted to, and issued by, Council/Accredited Certifier prior to any excavation or building works being carried out on site.
- (15) An approval under Section 68 of the Local Government Act is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system is to be provided. No plumbing and drainage is to commence until approval is granted.
- (16) A Fire Safety Schedule specifying the fire-safety measures (both current and/or proposed) to be implemented in the building is to be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.
- (17) Council/Accredited Certifier is to be provided with a Fire Safety Upgrade Report prepared by a suitably qualified person. The report is to specify upgrade works proposed in order to bring the existing building into compliance with the Building Code of Australia. Where the report recommends the use of an alternative fire engineered solution, specific design details must be provided to Council/Accredited Certifier with the report. Please note that an alternative solution must be carried out by a certified Fire Engineer.
- (18) Plans and specifications are to 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.
- (19) Structural Engineering details are to be submitted with the application for a Construction Certificate for all proposed slabs/footings/structural steel.
- (20) Structural engineering details are to be submitted with the application for a Construction Certificate for all proposed retaining walls over 900mm in height to be constructed as part of this development.
- (21) Detailed plans indicating the layout of all sanitary and access facilities for people with disabilities is to be submitted. These designs must be in accordance with Part D3 of the Building Code of Australia, Australian Standard 1428.1:2009 - Design for Access and Mobility: General Requirements for Access -New Building Work.

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Conditions (cont)

Prior to the issue of a construction certificate (cont)

- (22) A detailed plan indicating the proposed layout of all external and internal sanitary drainage, stormwater and external water is to be submitted with the Construction Certificate. All proposed lines are to be within the property and not within any easements.
- (23) Detailed plans and specification are to 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.
- (24) The applicant is to 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.
- (25) Prior to the issue of the Construction Certificate, evidence shall be submitted to Council of the lodgement of plans with the Department of Lands and Property Information to consolidate Lot 1 in DP 955656, Lot 1 DP 308157 and Lot 10 in DP 1015171 into one parcel.
- (26) Engineering plans, showing details of all proposed work and adhering to any conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier prior to the issuing of a Construction Certificate.
- (27) A water and soil erosion control plan is to 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.
- (28) The development's stormwater design is to 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 is to be determined in accordance with the requirements of the Dam Safety Committee.

The design of the detention storage is to be undertaken using the 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.

Overflows from the detention basin are to be directed to Byng Street via the access driveway.

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Conditions (cont)

Prior to the issue of a construction certificate (cont)

(29) A Liquid Trade Waste Application is to be submitted to Orange City Council prior to the issuing of a Construction Certificate. The application is to be in accordance with Orange City Council's Liquid Trade Waste Policy. Engineering plans submitted as part of the application are to show details of all proposed liquid trade waste pre-treatment systems and their connection to sewer.

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

(30) A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act* 2000, is to 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 ETs for water supply headworks and 4.5 ETs for sewerage headworks.

(31) The existing 450mm diameter stormwater line crossing the site is to be reconstructed using rubber ring jointed pipes and located clear of the proposed buildings.

The stormwater design is to include an overland flow path following the alignment of the stormwater line that allows surface flows in a 1 in 100 year storm to pass around the buildings.

PRIOR TO WORKS COMMENCING

- (32) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (33) A registered demolition contractor must carry out demolition. Documentary evidence of registration must be submitted to Council.
- (34) The Roads and Maritime Services (RMS) requirements for the development are:
 - All activities, including loading and unloading of goods, associated with the development are to be carried out on site. All vehicles including delivery vehicles are to enter and exit the site in a forward direction.
 - Vehicle access for construction and demolition works is to be confined to Byng Street where possible.
 - A Road Occupancy Licence is required prior to any works commencing within three metres of the travel lanes of Summer Street. This can be obtained by contacting Mr Paul Maloney on (02) 6861 1686. Submission of a Traffic Management Plan incorporating a Traffic Control Plan is required as part of this licence.
 - All works shall be undertaken at no cost to RMS.
- (35) Soil erosion control measures shall be implemented on the site.

DURING CONSTRUCTION/SITEWORKS

(36) All construction/demolition work on the site is to 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.

Conditions (cont)

During construction/siteworks (cont)

- (37) A Tree Protection Zone (AS4970 2009) shall be established around tree identified as T16 on the submitted plan numbered LA01 issue F. Activities restricted within the TPZ (AS4970 – 2009) of the tree identified as T16 the submitted plan numbered LA 01 issue F shall include but are not limited to:
 - machine excavation including trenching
 - excavation for silt fencing
 - cultivation
 - storage
 - chemical preparation including cement products
 - parking of vehicles and plant items
 - refuelling
 - dumping of waste
 - washing down and cleaning of equipment
 - placement of fill
 - soil level changes
 - temporary or permanent installation of utilities and signs.
- (38) Where Orange City Council is appointed as the Principal Certifying Authority, the following inspections will be required to be carried out by Council:
 - at commencement of building work
 - footing reinforcement, prior to the pouring of concrete
 - slab reinforcement, prior to the pouring of concrete
 - frame inspection
 - wet area waterproofing
 - stormwater drainage
 - internal sewer/sanitary drainage
 - external/sanitary drainage
 - hot and cold water plumbing
 - recycled water and rainwater plumbing
 - final inspection

Should any of the above mandatory inspections not be carried out by Council, an Occupation Certificate will not be issued on the complete structure.

- (39) 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.
- (40) All plumbing and drainage (water supply, sanitary plumbing and drainage, stormwater drainage and hot water supply) is to 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 is to be installed by a licensed plumber and is to be inspected and approved by Council prior to concealment.

Conditions (cont)

During construction/siteworks (cont)

(41) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority prior to the pouring of the slab or footings.

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- (42) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (43) All materials onsite or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act* 1997 are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (44) All excavated material is to be removed from the site in an approved manner and disposed of lawfully to an authorised disposal area.
- (45) Storage of materials including stockpiles is not permitted on the public footpath area or roadway unless a hoarding is provided and approval granted.
- (46) Building demolition is to be carried out in accordance with Australian Standard 2601:2001 The Demolition of Structures and the requirements of the NSW WorkCover Authority.
- (47) Adequate care is to be taken during demolition /excavation /building/ construction to ensure that no damage is caused to any adjoining properties.
- (48) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (49) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing all the lots from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.

- (50) 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.
- (51) All driveway and parking areas are to be sealed with bitumen, hot mix or concrete and are to be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and be in accordance with the Orange City Council Development and Subdivision Code.
- (52) A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code.
- (53) The existing basalt (bluestone) kerb and gutter layback in Byng Street is to be retained. Where such bluestone exists in the location of the proposed modified ingress and egress into Byng Street, the bluestone gutter is to be retained and the existing kerb is to be incorporated into the vehicular layback adjacent to the gutter. Any kerb stones left over as a result of the works are to be returned to Council. The adjacent footpath area is to be re-graded to the shape and level requirements of footpaths in the Orange City Council Development and Subdivision Code.
- (54) The existing 150mm diameter sewer main that crosses the site is to be accurately located. Where the main is positioned under any proposed building work, measures are to be taken in accordance with Orange City Council Policy Building over and/or adjacent to sewers ST009.

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Conditions (cont)

During construction/siteworks (cont)

(55) All sewage from the site is to be piped to the standard sewerage access chamber within the allotment and located over Council's existing 150mm diameter sewer main running east – west across the site. The length of existing 150mm diameter sewer main to the south of this manhole is to be abandoned.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (56) The landscape setting shall be reinstated to the rear of the Berrilea Mansion and surrounding curtilage as well as the adjacent stables and tank stand in accordance with the adopted Conservation Management Plan prior to the issue of a final occupation certificate.
- (57) The 400mm deep vertical privacy screens shall be installed to the west facing windows of the proposed development prior to the issue of a final occupation certificate.
- (58) Footpaths within the subject land shall be installed in accordance with section 26(3) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- (59) Landscaping shall be installed in accordance with the approved plan.
- (60) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (61) 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.
- (62) 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.
- (63) Certification from Orange City Council, stating that liquid trade waste measures implemented comply with Orange City Council's Liquid Trade Waste approval, is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (64) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a compliance certificate issued, prior to the issue of either an interim or a final Occupation Certificate.
- (65) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater retention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (66) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on Public Land, 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.
- (67) 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 an Occupation Certificate, unless stated otherwise.

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Conditions (cont)

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (68) All collections, deliveries and the like as part of the operation of the Wontama retirement village shall occur between 7am 6pm Monday through Saturday only.
- (69) Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
- (70) Existing Landscaping shall be maintained where practicable.
- (71) Transport shall be provided to residents of the facility in accordance with section 26(2)(c) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- (72) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000.*

ADVISORY NOTES

(1) The hairdresser within the community building shall be ancillary to the Wontama retirement village and is to be used by the residents of Wontama retirement village only.

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

- (1) All work shall be carried out in accordance with the following documentation:
 - (a) Drawing nos. DA000/Q, dated 08/10/11; DA001/P dated 01/09/11; DA002/P dated 08/10/11; DA003/N dated 21/07/11; DA100/T dated 08/30/11; DA110-A/T dated 09/07/11; DA110-B/T dated 05/10/11; DA111-A/T dated 09/07/11; DA111-B/T dated 05/10/11; DA112/T dated 05/10/11; DA114/O dated 15/11/11; DA170/P dated 01/09/11; DA300/Q dated 21/07/11; DA400/Q dated 08/08/11; DA910/P dated 08/25/11; DA911/P dated 08/24/11; DA912/P dated 08/10/11; DA913/P dated 08/31/11 prepared by Jackson Teece Architecture.
 - (b) Heritage Impact Statement, Wontama Uniting Care Retirement Village 30-38 Byng Street, Orange, dated March 2012, prepared by City Plan Heritage.
 - (c) Statement of Environmental Effects, Redevelopment of Wontama Retirement Village 30-38 Byng Street, Orange, dated February 2012, prepared by City Plan Services (and appendices).

EXCEPT AS AMENDED by the conditions of this consent.

Further Information:

(2) An interpretation plan shall be prepared and implemented prior to Occupation Certificate being issued.

Nominated Heritage Consultant:

- (3) All heritage work shall be supervised by a qualified heritage consultant to ensure that the impact of the works on the heritage significance of the building is minimised and all work has been carried out in accordance with the approved documentation and the conditions of this consent.
- (4) All work shall be carried out by suitably qualified tradesmen with practical experience in conservation and restoration of similar heritage items. The nominated heritage consultant in Condition 3 shall be consulted prior to the selection of appropriate tradesmen.

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Conditions (cont)

General Terms of Approval from the Heritage Council of New South Wales (cont)

Site Protection and Works:

- (5) Significant built elements are to be adequately protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.
- (6) The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- (7) The Applicant must ensure that should any Aboriginal objects be uncovered, excavation or disturbance of the area is to stop immediately and the Environmental Regulation and Protection Group of the Office of Environment and Heritage is to be informed in accordance with section 91 of the 'National Parks and Wildlife Act, 1974'.

Archival Recording:

(8) An archival photographic recording of the interior of the building and affected external aspects is undertaken prior to the commencement of works, in accordance with the Heritage Council document, *Photographic Recording of Heritage Items using Film or Digital Capture.* The original copy of the archival record shall be deposited with the Heritage Branch, an additional copy shall be provided to the Orange City Council.

Compliance:

(9) Following the determination of the development application by the Orange City Council, an application under Section 60 of the NSW Heritage Act 1977 must be submitted to and approved by the NSW Heritage Council.

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 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.

<i>Disability Discrimination</i> <i>Act 1992</i> :	This application has been assessed in accordance with the <i>Environmental Planning and Assessment Act</i> 1979. No guarantee is given that the proposal complies with the <i>Disability Discrimination Act</i> 1992.
	The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.
	The <i>Disability Discrimination Act</i> 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 <i>Disability Discrimination Act</i> 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:	