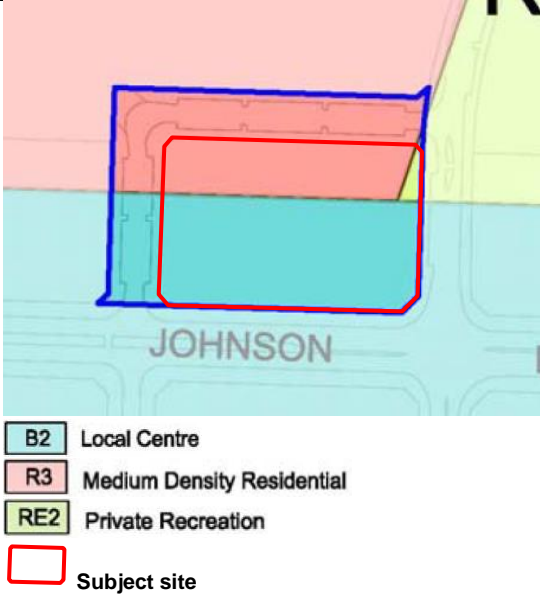


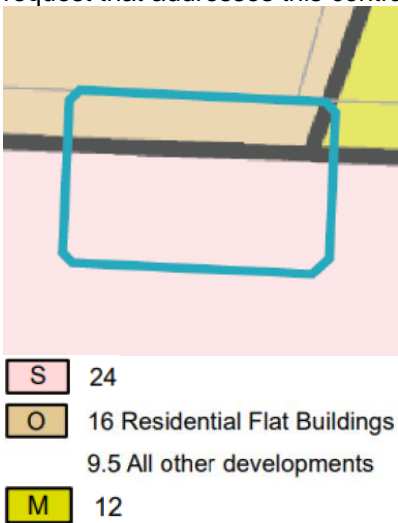
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Clause	Assessment	Compliance?
<p>Appendix 1, 2.3 Zone objectives and land use table</p> <p>The land use table for each zone sets out what development is permitted without consent, permitted with consent and prohibited.</p> <p>The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within a zone.</p> <p>The objectives for the B2 zone are:</p> <ul style="list-style-type: none"> • To provide a range of retail, business, entertainment and community uses which serve the needs of people who live in, work in and visit the local area. • To encourage employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling. • To ensure that residential development does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses. • To ensure that residential development does not preclude the provision of active uses at street level. • To provide for land uses of a higher order and density within the Local Centre Zone than are permitted within the Neighbourhood Centre Zone or the Mixed Use Zone. • To provide for residential development that contributes to the vitality of the local centre. <p>The objectives for the R3 zone are:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To support the wellbeing of the community, including educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment. • To provide for a variety of recreational uses within open space areas. • To allow for small scale kiosks, function 	<p>The proposed development is characterised as a “pub” as the dominant land use.</p> <p>The Growth SEPP defines pub as a “licensed premises under the Liquor Act 2007 the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises”.</p> <p>While there are components of the development which may be viewed as having characterizes of other land uses (such as entertainment venue, or function centre), when considering the characterisation of the use, it is considered these uses to be ancillary to the dominate use (being a “pub”).</p> <p>The ancillary uses are considered a component of the general operations of the “pub” and have been conditioned to not operate solely or in isolation from the operation of the pub. These uses rely on the dominant use of the pub in providing services, food and beverage provisions and access.</p> <p>The proposal is considered to be consistent with the relevant zone objectives as it will provide for the entertainment and recreation needs of the community and is consistent with the desired future character of the area. In addition, the proposed development will provide numerous employment opportunities during both the construction and operational phases.</p> <p>The proposed development will also allow the provision of areas of open space and provide connections to the nearby recreation space. The proposal will not have any impacts on the natural values of the core riparian areas. The proposed development is a desirable and compatible land use for the Oran Park Town Centre and will respond to the overall Oran Park Masterplan.</p>	Yes

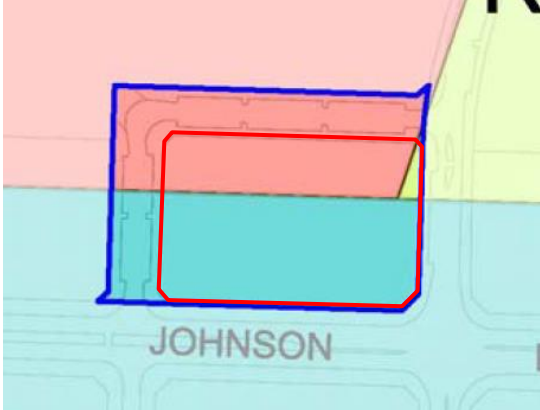
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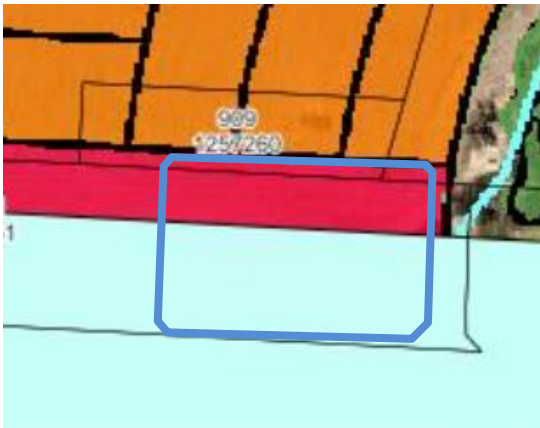






<p>centres, restaurants and markets that support the primary function and use of recreation areas, public open space and recreation facilities located within residential areas.</p> <p>The objectives of the RE2 zone are:</p> <ul style="list-style-type: none"> • To enable land to be used for private open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes. • To preserve and maintain the natural values of core riparian areas and to allow development where it can be demonstrated that the development will not destroy, damage or have any other adverse effect on those values. • To ensure that residential development does not have an adverse effect on those values. 	 <p>While the proposal is consistent with the relevant objectives of the B2, R3 and RE2 zones, pursuant to the land use tables, a "pub" is only permitted with consent in the B2 zone.</p> <p>Pubs are prohibited in the RE2 zone. Furthermore, there is some ambiguity around whether pubs are permitted with consent or are prohibited in the R3 zone. The R3 land use table specified development permitted with consent as "Any other development not specified in item 2 or 4" with item 2 and 4 being "permitted without consent" and "prohibited" respectively. Unlike the Standard Instrument, the dictionary in the Growth SEPP does not explicitly state that a "pub" falls under another broader group term definition. In the Standard Instrument, a "pub" is clearly defined as a type of "food and drink premises" which is clearly defined as a type of "retail premises". However this is not made clear in the same way in the Growth SEPP. A "pub" is not listed as a prohibited land use and therefore could be considered to be permitted with consent, however "retail premises" are prohibited. As such under the Standard Instrument "food and drink premises" and "pubs" would also be prohibited. Council has taken the conservative view that a 'pub' is a type of 'food drink premises' which is a type of 'retail premises' and is therefore prohibited in the R3 Medium Density Residential zone.</p> <p>As shown in the above figure, development is proposed on land zoned R3 and RE2. While a "pub" is a prohibited land use in these zones, Clause 5.3 of the Growth SEPP</p>
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	provides flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site. A detailed assessment against this clause is provided later in this table.	
<p>Appendix 1, 4.3 Height of buildings</p> <p>Maximum buildings heights must not exceed the maximum building height shown on the Height of Buildings Map.</p> <p>Three maximum building height development standards apply to this site:</p> <p>B2 zone: 24 metres; R3 zone: 9.5 metres (or 16 metres for residential flat buildings); and RE2 zone: 12 metres.</p>	<p>The proposed development complies with the 24 and 12 metres height of building development standards, however exceeds the 9.5 metre development standard (that applies to that part of the site zoned R3) with a maximum building height of 12.15 metres proposed on this portion of the site. The applicant has submitted a Clause 4.6 written request that addresses this contravention.</p> 	No, see assessment report.
<p>Appendix 1, 4.6 Exceptions to development standards</p> <p>Development consent may be granted for development that contravenes a development standard imposed by the SEPP or any other environmental planning instrument.</p> <p>The consent authority must consider a written request from the applicant that seeks to justify the contravention by demonstrating that:</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>Development consent must not be granted</p>	<p>Clause 4.3 is not excluded from the operation of this clause.</p> <p>The applicant has submitted a Clause 4.6 written request that seeks to justify the contravention of the development standard.</p> <p>It is considered that the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>The proposed development is consistent with and does not erode the intent of the underlying zoning and building height control objectives. As such the development is considered to be within the public interest.</p> <p>The assumed concurrence is issued for variations to clause 4.3 (Department of Planning circular PS 18-003, issued 21 February 2018).</p>	Yes, see assessment report.

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<p>unless:</p> <p>(a) the consent authority is satisfied that:</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated, and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Secretary has been obtained.</p> <p>This clause prohibits the approval of development standard contraventions for certain subdivisions of land in some rural and environmental zones.</p>		
<p>Appendix 1, 5.3 Development near zone boundaries</p> <p>Development consent may be granted for development that is prohibited in a zone if it is within 50 metres of a zone where it may be carried out.</p> <p>The consent authority must be satisfied that:</p> <p>(a) the development is not inconsistent with the objectives for development in both zones, and</p> <p>(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.</p> <p>This clause does not apply to land zoned RE1 Public Recreation, E2 Environmental Conservation or E4 Environmental Living, or to land proposed to be developed for sex services premises or restricted premises.</p>	 <p>Legend:</p> <ul style="list-style-type: none"> B2 Local Centre R3 Medium Density Residential RE2 Private Recreation Subject site <p>As shown in the above figure, development is proposed on land zoned R3 and RE2. Development for the purposes of a "pub" is prohibited in these zones. Land zoned R3 or RE2 and development involving a "pub" is not excluded from the operations of this clause.</p> <p>The development extends a maximum of 25 metres into both the R3 and RE2 zones.</p> <p>Council is satisfied that the development is not inconsistent with the objectives for development in all applicable zones as demonstrated in the Clause 2.3 assessment</p>	<p>Yes.</p>

	<p>above.</p> <p>The carrying out of the development is considered desirable for the following reasons:</p> <ul style="list-style-type: none">• To ensure development of the Oran Park precinct is undertaken in a co-ordinated manner, the Oran Park DCP requires all development to comply with the Indicative Layout Plan (ILP). The boundary of the 'mixed use' area as shown in the ILP does not align with the B2/R3 zoning boundary. As can be seen in the below figures, the 'mixed use' area extends north of the B2 zoning.  <p><i>Extract from the Oran Park ILP.</i></p>  <p><i>Extract from the Oran Park ILP with B2 zoning overlay.</i></p> <p>SEPP:</p> <table><tr><td>B2</td><td>Local Centre</td></tr></table> <p>DCP:</p> <table><tr><td></td><td>Mixed Use</td></tr><tr><td></td><td>Medium Density</td></tr></table> <ul style="list-style-type: none">• The location of the approved northern boundary road was approved under DA/2019/317/1 and is consistent with the ILP and the Street Network Plan as shown in the Oran Park DCP.	B2	Local Centre		Mixed Use		Medium Density	
B2	Local Centre							
	Mixed Use							
	Medium Density							

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	<ul style="list-style-type: none"> • It is considered that this boundary road is a more ideal location for the effective boundary of the B2/R3 zoning as the road will act to minimise potential land use conflicts between the two zones. • The development is consistent with the ILP and has been assessed in detail in the Oran Park DCP Assessment attached to the report. • Council is satisfied that the development will not prevent the minimum dwelling target of 559 dwellings being provided for the relevant sub-precinct as identified in the Oran Park DCP. • The effective boundary of the riparian protection area was established in the development application for the subdivision and embellishment of stage 1 of the Ron's Creek corridor (DA/2018/1046/1). This application offset the riparian area lost through the construction of roads and other development and was approved by the Natural Resources Access Regulator. • Use of the small area of land zoned RE2 as open space is impractical due to the relationship of Central Avenue and the main body of land zoned RE2 opposite the subject site. The pub provides greater recreation opportunities for the subject site than what would otherwise be provided if recreational pursuits were limited to that section of land zoned RE2. • The development of the pub is concentrated along the southern boundary to the maximum extent possible. • GDC has entered into early discussions with Council's Strategic Planning seeking to align the boundaries of the B2 Town Centre zoning with the ILP or expand the town centre further north to allow more logical and compliant development of this town centre fringe area in accordance with ILP and Oran Park's upgraded centre status in Regional Planning. • The area of land zoned RE2 has been offset by the use of land zoned R1 residential in the DA for the Ron's Creek embellishment. 	
Appendix 1, 6.1 Public utility infrastructure	A standard condition is recommended to ensure that essential public utility	Yes.

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<p>Development consent must not be granted for development on land unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.</p>	<p>infrastructure will be provided when required</p>	
<p>Appendix 1, 6.6 Development in special areas</p> <p>Development consent must not be granted for development in a special area on the Special Areas Map unless a development control plan has been prepared for the land and addresses a number of matters listed in this clause; including a transport movement hierarchy and stormwater and water quality management controls.</p>	<p>The Oran Park Development Control Plan 2007 applies to the site and Part B1 of that development control plan specifies detailed development controls for the Oran Park Town Centre in which this site is located.</p>	<p>Yes.</p>