

## SYDNEY WESTERN CITY PLANNING PANEL

Panel Number:	2019WCI039.
Application Number:	2019/402/1.
Local Government Area:	Camden.
Development:	Construction of Oran Park Tavern, comprising of a 3 storey pub and ancillary uses including a function room, two cinemas, two training rooms, at-grade and basement car parking, temporary overflow car park, earthworks, infrastructure and services work, landscaping and associated works.
Capital Investment Value:	\$37 million.
Site Address(es):	41 Central Avenue, Oran Park, A Dick Johnson Drive, Oran Park, B Civic Way, Oran Park, and 76 Central Avenue, Oran Park.
Applicant:	DFP Planning Pty Ltd.
Owner(s):	Perich Property Pty Ltd and Leppington Pastoral Co Pty Ltd.
Date of Lodgement:	16 May 2019.
Number of Submissions:	None.
Classification:	Regionally significant development.
Recommendation:	Approve with conditions.
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011):	General development capital investment value >\$30 million.
List of All Relevant Section 4.15(1)(a) Matters:	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006.</li> <li>• State Environmental Planning Policy (Infrastructure) 2007.</li> <li>• State Environmental Planning Policy No 55 - Remediation of Land.</li> <li>• State Environmental Planning Policy No 64 - Advertising and Signage.</li> <li>• Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.</li> <li>• Camden Development Control Plan 2011.</li> <li>• Oran Park Development Control Plan 2007.</li> </ul>
List all Documents Submitted with this Report for the	<ul style="list-style-type: none"> <li>• Assessment report.</li> <li>• Applicant's written request seeking to justify the</li> </ul>

Panel's Consideration:	<p>contravention of a development standard.</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006 assessment table.</li> <li>• Camden Development Control Plan 2011 assessment table.</li> <li>• Oran Park Development Control Plan 2007 assessment table.</li> <li>• Recommended conditions.</li> <li>• Proposed plans.</li> <li>• Letters from Greenfield Development Company No 2 and Perich Property Unit Trust supporting the parking arrangements.</li> <li>• Site photos.</li> </ul>
Development Standard Contravention Request(s):	Clause 4.3 – Maximum Height of Buildings as contained in State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
Summary of Key Submission Issues:	No submissions received.
Report Prepared By:	Jordan Soldo, Senior Town Planner.
Report Date:	3 August 2020.

### Summary of Section 4.15 Matters

	Yes
Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

### Legislative Clauses Requiring Consent Authority Satisfaction

	Yes
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

### Development Standard Contraventions

	Yes	N/A
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Special Infrastructure Contributions

	Yes	No
Does the application require Special Infrastructure Contributions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Conditions

	Yes
Have draft conditions been provided to the applicant for comment?	<input checked="" type="checkbox"/>

## PURPOSE OF REPORT

The purpose of this report is to seek the Sydney Western City Planning Panel's (the Panel's) determination of a development application (DA) for the proposed Oran Park Tavern at 41 and 76 Central Avenue, A Dick Johnson Drive, and B Civic Way, Oran Park.

The Panel is the consent authority for this DA as the capital investment value (CIV) of the development is \$37 million. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.

## SUMMARY OF RECOMMENDATION

That the Panel determine DA/2019/402/1 for the proposed Oran Park Tavern pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

## EXECUTIVE SUMMARY

Council is in receipt of a DA for the proposed Oran Park Tavern at 41 and 76 Central Avenue, A Dick Johnson Drive, and B Civic Way, Oran Park.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy (State and Regional Development) 2011.	The Panel is the consent authority for this DA as the development has a CIV of \$37 million which exceeds the CIV threshold of \$30 million for Council to determine the DA.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP).	The development is permitted with consent in the B2 Local Centre zone. The development is permitted in the R3 Medium Density Residential and RE2 Private Recreation zones subject to the provisions of Clause 5.3 as it is consistent with the zones' objectives and acceptable in terms of the Growth SEPP's other matters for consideration. The development requires a variation to the height of buildings development standard.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).	The DA was referred to Transport for NSW and their response has been considered.
State Environmental Planning Policy No 55 - Remediation of Land.	Council staff have assessed a Summary of Contamination Investigations letter submitted in support of the DA. Council staff are satisfied that the site is suitable for the development.
State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64)	Council staff are satisfied that the signage is consistent with the objectives of SEPP 64 in that it is compatible with the desired amenity and visual character of the area; will provide effective communication by displaying the development's name; and will be of a high quality design and finish. Council staff have also considered the assessment criteria in Schedule 1 of SEPP 64 and are satisfied that the signage is consistent with it.
Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20).	The development is consistent with the aim of SREP 20 (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

The DA was publicly exhibited for a period of 30 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 5 June to 4 July 2019. No submissions were received.

The applicant proposes a contravention to the height of buildings development standard that applies to the site. The development complies with the 24m height limit for the B2 Local Centre zoned portion of the site, however, varies from the 9.5m maximum height of buildings development standard that applies to the portion of the site zoned R3 Medium Density Residential. The maximum proposed height for this portion of the site is 12.15m above finished ground level. The contravention is assessed in detail in this report and is supported by Council staff.

The applicant also proposes a variation to Section B5.1 Parking of Camden Development Control Plan 2011 (Camden DCP). Pursuant to the controls contained in the Camden DCP the development generates a demand for 791 off-street car parking spaces and only 295 spaces are proposed (a 496 space deficit). The applicant has submitted parking demand studies from comparable venues that seeks to demonstrate that the level of car parking provided is adequate. The issue of car parking is assessed in detail in this report and the level of car parking proposed is supported by Council staff.

Based on the assessment, it is recommended that the DA be approved subject to the conditions attached to this report.

## KEY PLANNING CONTROL VARIATIONS

Requirement	Proposed	Variation
9.5m maximum building height (on that part of the site zoned R3 Medium Density Residential).	12.15m	2.65m (27.9%).
791 car parking spaces in numeric DCP calculation.  <u>or</u> 262 car parking spaces based on parking demand from Traffic Report.	295 car parking spaces.	496 space deficit from numeric DCP rate.  <u>or</u> 33 space surplus based on parking demand from Traffic Report.
Provide a proposed transit hub in accordance with Figure 66: Public Transport Routes.	The proposed development is located on the site identified for a proposed transit hub.	The transit hub is now proposed to be delivered along with the rail station at the corner of Oran Park Drive and Podium Way.

## AERIAL PHOTO

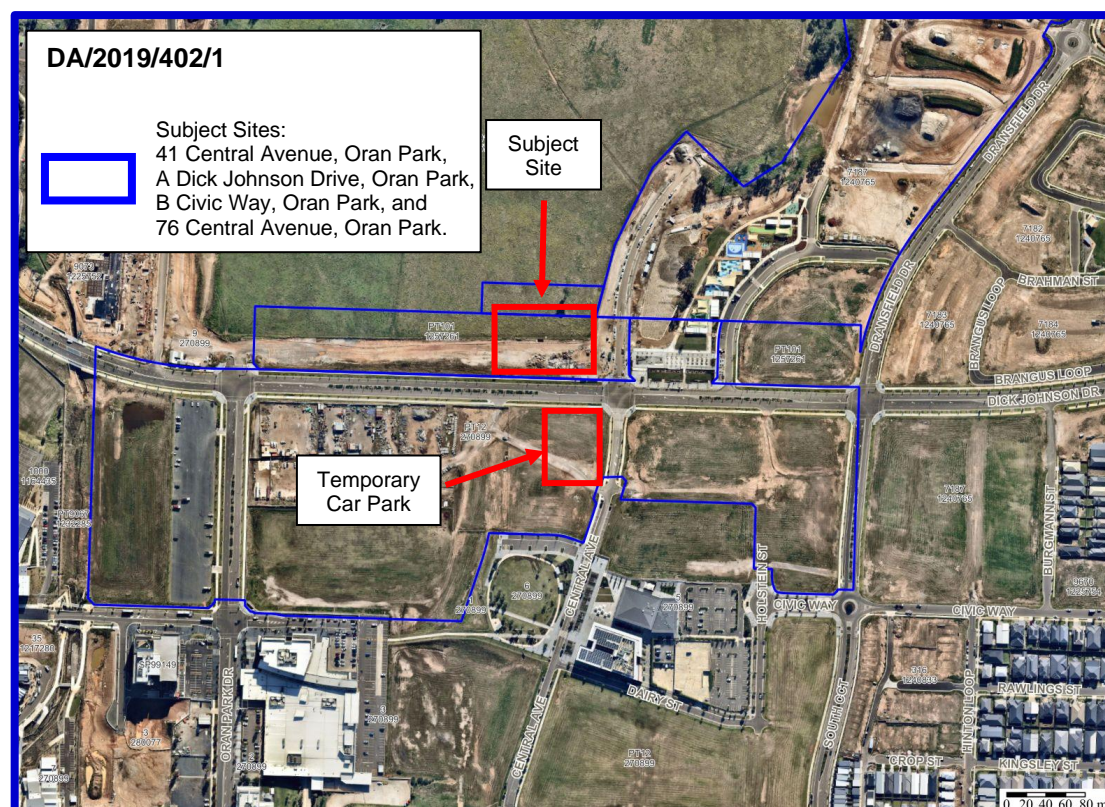
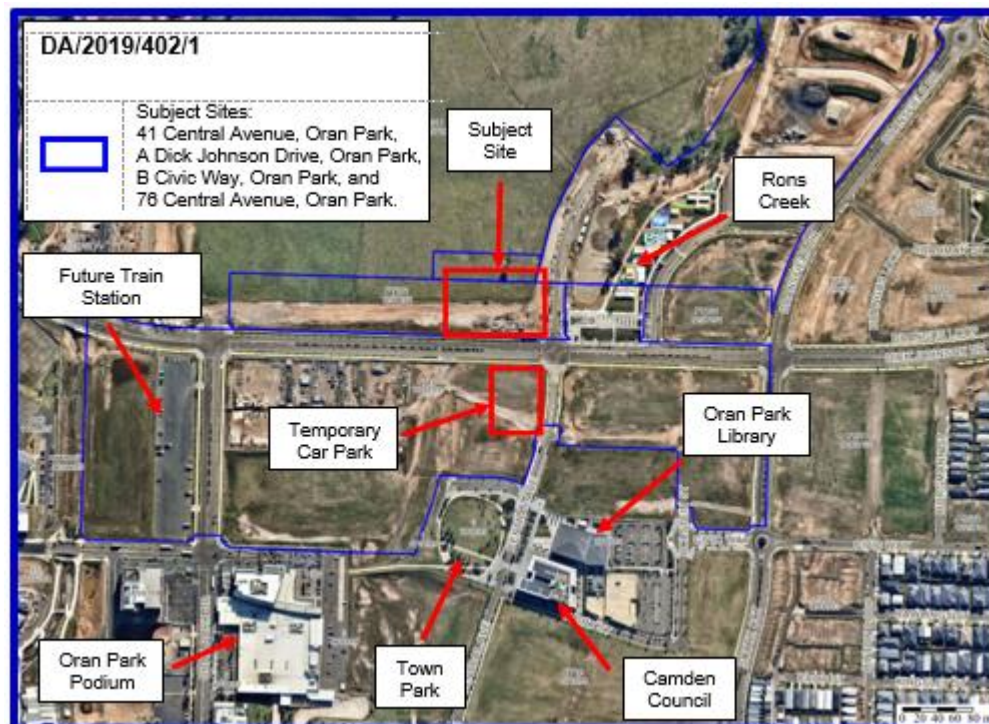


Figure 1: Aerial photograph





*Figure 2: Site Context Plan*

## **THE SITE**

The development site is situated on the corner of Dick Johnson Drive and Central Avenue with both roads under construction and nearing completion. The proposal spans across four lots which are legally described as PLt: 101 DP: 1257261, Llot: 909 DP: 1257260, PLt: 7187 DP: 1240765, and PLt: 12 DP: 270899.

The proposed Oran Park Tavern is to be located on approved Lot 389, has a frontage to Dick Johnson Drive of 93m and a frontage to Central Avenue of 56.2m. The site is currently vacant with no existing significant vegetation present.

The State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP) does not map the site as containing any heritage items or protected native vegetation. Part of the development site is mapped as being bushfire prone land which has been addressed in a bushfire report submitted with the application. Furthermore, part of the site is also defined as 'Riparian Protection' in the SEPP. This has been offset as part of a comprehensive design of the approved embellishment of the Ron's Creek riparian corridor (DA/2018/1046/1) immediately to the east of the site.

Council recently approved a development application (DA/2019/317/1) for a Torrens title subdivision to create the subject site lot (approved Lot 389), construction and dedication of the two remaining perimeter roads and associated works. A subdivision works certificate had been lodged as of the date of this report. The approved engineer plan from this DA is shown in Figure 3 below.

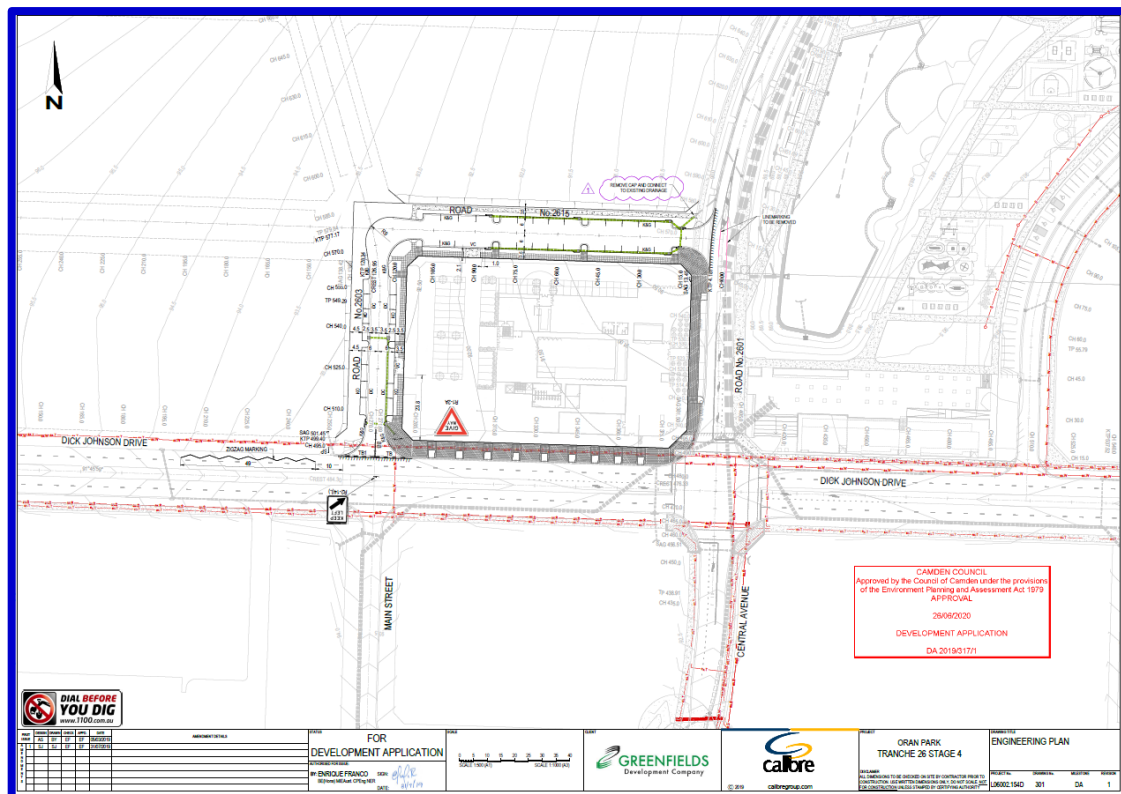


Figure 3: Approved engineer plan of DA/2019/317/1 which approved the subject lot and north and west perimeter roads.

The subject site is zoned part B2 Local Centre, part R3 Medium Density Residential and part RE2 Private Recreation as shown on the South West Growth Centre Land Zoning Map, an excerpt of which is shown in Figure 4 below.

The subject site is located at the northern edge of the Oran Park Town Centre. The adjoining sites remain largely undeveloped except for the Ron's Creek open space and riparian corridor to the east. The Indicative Layout Plan and Town Centre Structure plan show the area to the north being medium density residential, with mixed use development to the west and south.

## ZONING PLAN

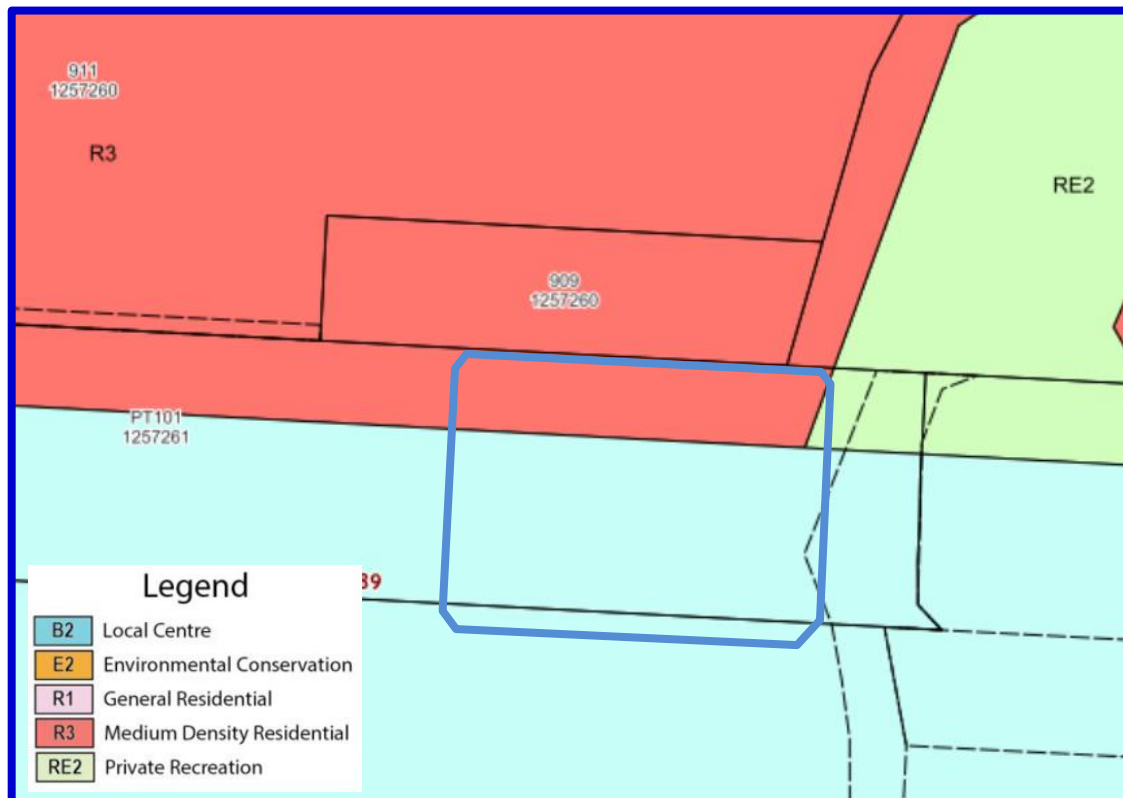


Figure 4: The development site outlined in blue in relation to land use zones.



## AREA MASTER PLAN

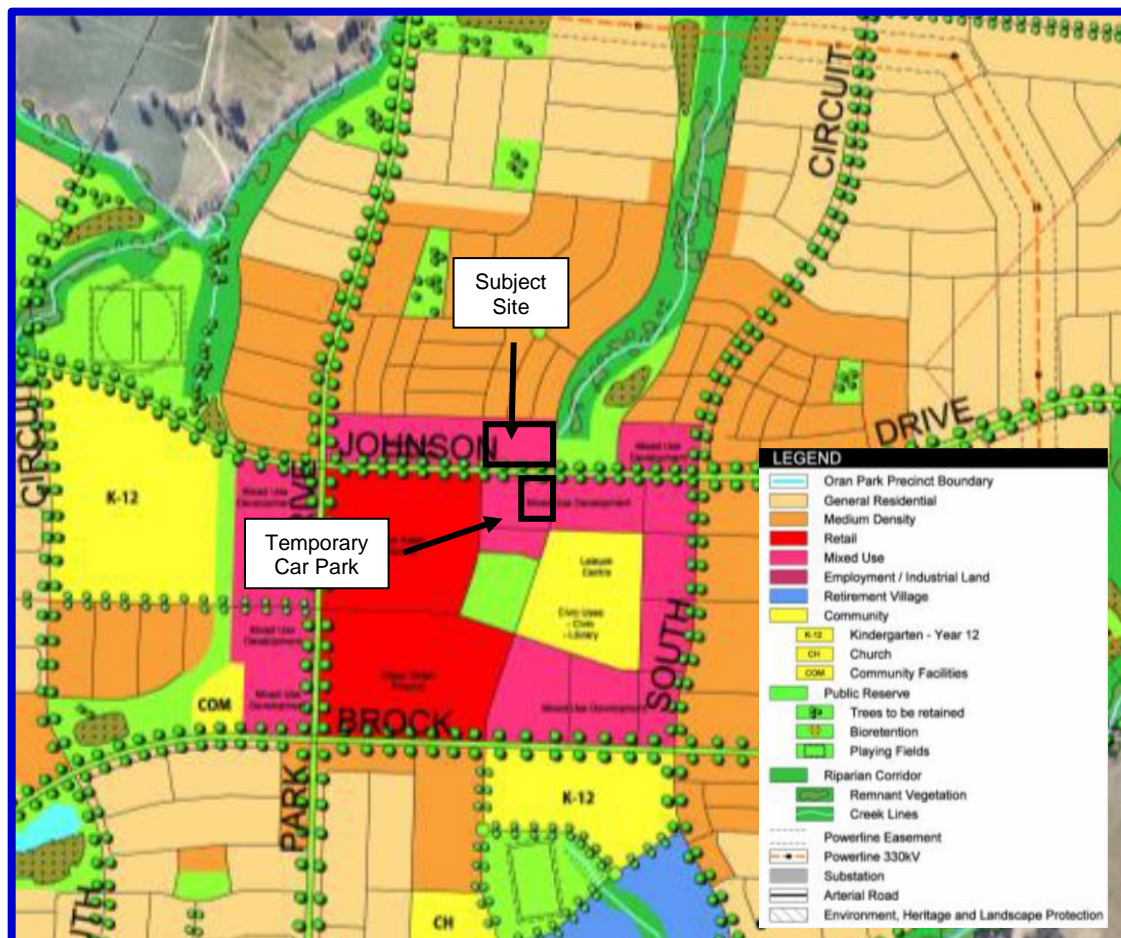


Figure 5: Extract from the Oran Park Indicative Layout Plan.

## HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
26 June 2020.	Approval of DA/2019/317/1 for a Torrens title subdivision, construction and dedication of roads, and associated works. The DA approved the future lot being development as well as the north and west perimeter roads.
22 January 2019.	Approval of DA/2018/1046/1 for a Torrens title subdivision to create five lots and embellishment and dedication of the Rons Creek riparian corridor to the east of the proposed pub. The application also approved the eastern perimeter road.
29 May 2017.	Approval of DA/2016/1535/1 for the construction roads including Dick Johnson Drive and installation of traffic signals. This application approved the portion of Dick Johnson Drive adjoining the site.
13 June 2019	Approval of DA/2018/444/1 for bulk earthworks on the Tranche 26 development area including the subject site.

## THE PROPOSAL

DA/2019/402/1 seeks approval for the construction and use of Oran Park Tavern.

Specifically, the development involves:

- Site establishment works including bulk excavation;
- Construction of a three-storey pub and ancillary uses consisting of a function room, two cinemas, two training rooms with a total Gross Floor Area of 3,300m<sup>2</sup>;
- Construction of 295 car parking spaces consisting of:
  - On-site basement comprising 140 car parking spaces;
  - On-site at grade car parking comprising 46 spaces;
  - A temporary overflow car park comprising 112 car parking spaces;
- Construction of 8 motorcycle spaces and 12 bicycle spaces,
- Signage;
- Associated site works including the construction of earthworks, drainage, services and landscaping,
- Operating hours of:
  - Monday – Saturday: 7:00am – 2:00am, Sunday and public holidays: 7:00am – 12:00am (midnight).



*Figure 6: 3D render of the proposed tavern viewed from Dick Johnson Drive / Central Avenue Intersection looking north-west.*

## **PANEL BRIEFING**

Council staff briefed the Panel on the DA on 5 August 2019. The following discussion provides an assessment of how the issues raised by the Panel at the briefing have been addressed:

### *1. Consistency with adopted town centre structure arrangements*

The proposal is generally consistent with the adopted town centre structure plan with the exception of the provision of a 'Proposed Transit Hub'. This variation has been assessed in detail in this report and is considered supportable by Council staff.

### *2. Presentation of building (including car park) and in terms of a suitable transition from town centre scale to lower intensity adjoining uses, and relationship to public domain*

A 4.2 m deep strip of landscaping has been provided between the southern perimeter road (Dick Johnson Drive) and the at grade car park. The applicant has provided an additional landscape elevation plan that illustrates the extent of landscaping and aluminium screening when viewing the at grade car park from Dick Johnson Drive (Figure 7). Council staff are satisfied with the overall design and extent of landscaping will minimise potential adverse impacts on the public domain.

Furthermore, the proposed landscape plan in conjunction with the street trees approved under previous subdivision development applications will provide a suitable transition between the subject site and the open space to the east.



*Figure 7: Dick Johnson Drive boundary elevation showing screening of at-grade car park. See approved plans for further details on species selection.*



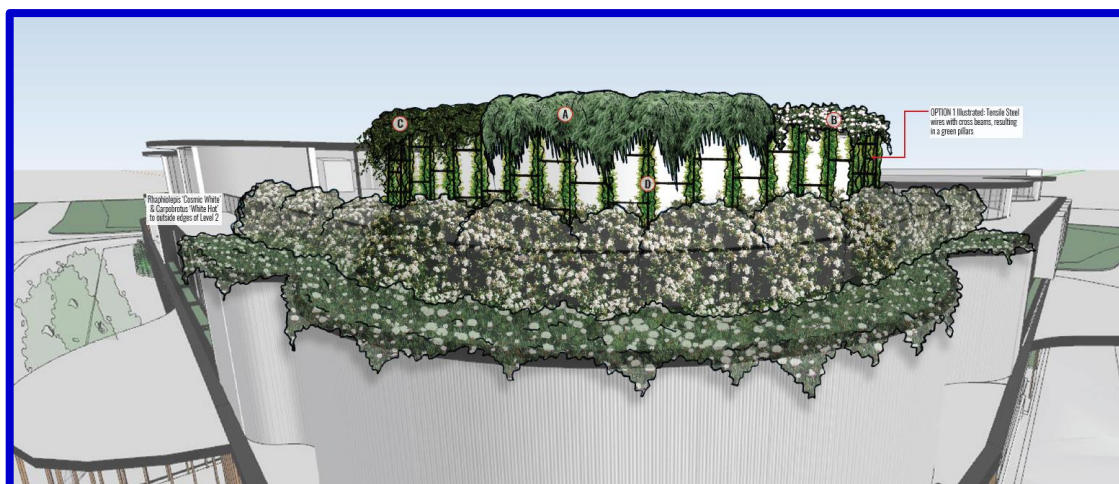


Figure 8: Level 2 green roof – corner of Dick John Drive and Central Avenue.

### 3. Hours of operation

The application proposes the following hours of operation:

Monday – Saturday: 7:00am – 2:00am, Sunday: 7:00am – 12:00am (midnight).

Subject to the recommended conditions including conditions relation to acoustic control measures and compliance with the Plan of Management, the proposal is unlikely to result in any significant adverse impacts on existing and future land uses.

To ensure there are no unreasonable impacts on the amenity of the surrounding area, a recommended condition (condition 6(4)) identifies that the extended hours of operation (i.e. 12:00am to 2:00am) are reviewable in accordance with section 4.17(10B) of the Environmental Planning and Assessment Act 1979 and Division 14 of the Environmental Planning and Assessment Regulation 2000. Such a review is at the discretion of Council every 6 months after the date on which the Tavern commences operation. The extended hours may be changed on completion of any such review.

### 4. Parking generation and adequacy of parking provision including a comparison with other Camden local government area facilities

Subsequent to a request for a more detailed parking assessment, the applicant has provided an updated assessment that also provides a comparison to Gregory Hills Tavern. Additionally, the proposal also includes an additional 112 spaces to the south of the site which will remain in place until other car parking is provided as part of the development of the Oran Park Town Centre. The variation to the off-street car parking requirements contained in Camden DCP is assessed in detail below and is supported by Council staff.

### 5. Advise of Transport NSW regarding bus transport hub arrangement and relationship to proposed rail route

The purpose of the 'Proposed Transit Hub' was to provide a place to allow regional and local buses to interconnect. Since the commencement of the Oran Park DCP, a train corridor and train station 400m west of the subject site has been identified. A more appropriate location for the transit hub has been identified

immediately to the west of this train line to allow regional and local buses to connect with other modes of public transport.

The application was referred to Transport for NSW who did not raise any objection to the development of the Oran Park Tavern in the location identified for a transit hub. Furthermore, as of July 2020 the North South Rail Link corridor is now gazetted.

## **ASSESSMENT**

### ***Environmental Planning and Assessment Act 1979 - Section 4.15(1)***

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

#### ***(a)(i) the provisions of any environmental planning instrument***

The environmental planning instruments that apply to the development are:

- State Environmental Planning Policy (State and Regional Development) 2011.
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy No 55 - Remediation of Land.
- State Environmental Planning Policy No 64 - Advertising and Signage.
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.

#### **State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)**

The SRD SEPP identifies development that is State significant or regionally significant development.

The Panel is the consent authority for this DA as the CIV of the development is \$37 million. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of the SRD SEPP.

#### **State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP)**

The Growth SEPP aims to co-ordinate the release of land for residential, employment and other urban development in the North West Growth Centre, the South West Growth Centre and the Wilton Growth Area.

#### ***Site Zoning***

The site is zoned B2 Local Centre, R3 Medium Density Residential and RE2 Private Recreation zones pursuant to Appendix 1, Clause 2.2 of the Growth SEPP.

#### ***Land Use Definitions***

The development is defined as a “pub” by the Growth SEPP.

#### ***Permissibility***



The development is permitted with consent in the B2 Local Centre zone, however a “pub” is prohibited in the R3 Medium Density Residential and RE2 Private Recreation zones pursuant to the land use table in Appendix 1 of the Growth SEPP.

Despite this, Clause 5.3 - Development Near Zone Boundaries 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 and be compatible with the planning objectives and land uses for the adjoining zone.

Council has assessed the development against this clause in the attached table titled “*State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP) Assessment Table*” and are satisfied that the development is not inconsistent with the objectives for development in all applicable zones, and 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.

Based on this assessment, consent may be granted to development for a “pub” on the R3 Medium Density Residential and RE2 Private Recreation portions of land. It is noted that the area of land zoned RE2 which is within the site of the proposed development is relatively small (approximately 125 m<sup>2</sup>) as shown in Figure 4 above.

#### *Planning Controls*

An assessment table in which the development is considered against the Growth SEPP’s planning controls is provided as an attachment to this report.

#### *Proposed Contravention*

As shown in Figure 9, the Growth SEPP height of buildings map identifies three different maximum building height controls for the subject site, namely:

- 24 metres for the area zoned B2 Local Centre;
- 9.5 metres (or 16m for residential flat buildings) for the area zoned R3 Medium Density Residential; and
- 12 metres for the area zoned RE2 Private Recreation.

The applicant proposes a contravention to the 9.5m maximum height of buildings development standard that applies to that part of the site zoned R3 Medium Density Residential. The proposal has a maximum height of 12.15m on this portion of the site which exceeds the standard by 2.65m (or 27.9%). The contravention relates to a small portion of the proposed building and is less than 10% of the total development.

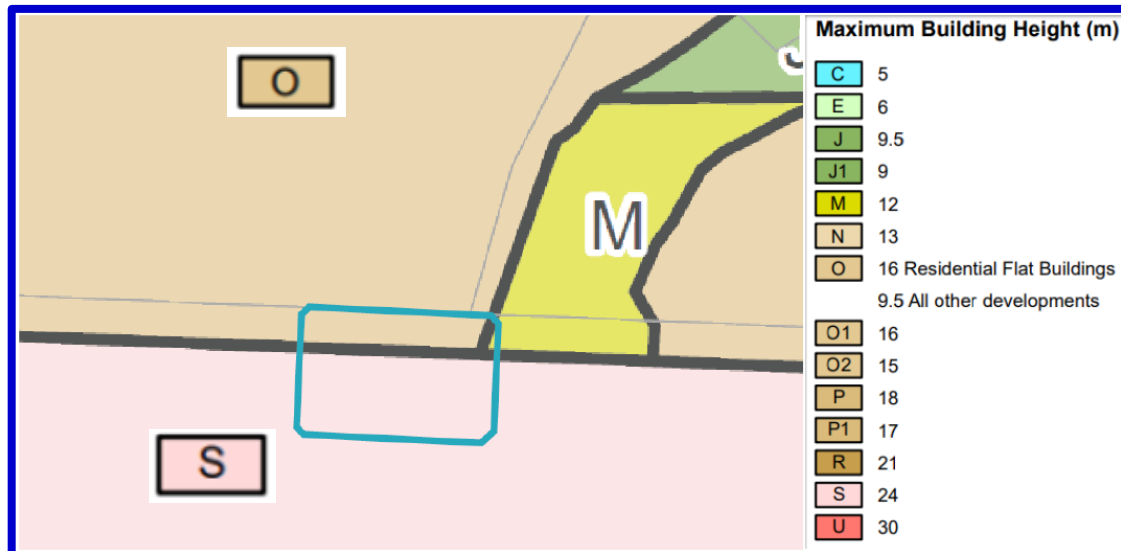


Figure 9: Extract from the Growth SEPP Height of Building Map with the subject site outlined in blue.

#### Contravention Assessment

Pursuant to Appendix 1, Clause 4.6(3) of the Growth SEPP, the applicant has submitted a written request that seeks to demonstrate that compliance with the development standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contravention in the circumstances of the case.

In summary, the applicant's written request provides the following justification for the contravention:

- The elements of the proposed tavern building that exceed the 9.5m building height development standard are located such that they will not cause adverse impacts on the built environment or the amenity of nearby properties. Future adjoining properties to the north and west will not be adversely affected in terms of overshadowing and privacy as these have been mitigated through the location of perimeter roads around the proposal.
- The level two and roof components have been setback from the ground and first floor levels to reduce the overall visual prominence of the Tavern from future adjoining development. Screen landscaping at ground level as well as landscaping above ground will further act to reduce visual prominence.
- Notwithstanding the contravention of the 9.5m building height development standard, the proposal minimises significant adverse amenity impacts. As clarified in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] and *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts.
- Strict compliance with the 9.5m building height development standard would require a redesign to accommodate the function room within area subject to a 24m building height. This would add additional building height on the southern section resulting in a poor urban design outcome.

- The proposed development is consistent with the relevant objectives of the development standard pursuant to clause 4.3 of the Growth SEPP, Appendix 1 of and is consistent with the relevant objectives of the R3 Medium Density Residential; B2 Local Centre and RE2 Private Recreation zones and therefore, the proposed development is in the public interest.

A copy of the applicant's written request is provided as an attachment to this report.

Pursuant to Appendix 1, Clause 4.6(4) of the Growth SEPP, Council staff are satisfied that:

- the applicant's written request has adequately addressed the matters required to be demonstrated by Appendix 1, Clause 4.6(3) of the Growth SEPP, and
- the 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 zones in which the development is proposed to be carried out.

The development standard contravention is supported for the following reasons:

- the development is consistent with the objectives of the development standard:
  - (a) *To preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale.*

Solar access diagrams submitted with the application demonstrate that there will be minimal overshadowing of adjoining land and that the public domain will also not be unreasonably overshadowed. The development will present a bulk and scale that is considered reasonable for the existing and future surrounding streetscape.

- (b) *To provide for a range of residential building heights in appropriate locations that provide a high quality urban form.*

This objective is not relevant as no residential buildings are proposed.

- (c) *To facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas.*

The development will facilitate a higher density neighbourhood and town centre environment. Impacts to adjoining future residential areas have been thoroughly assessed as part of this application and are considered to not be unreasonable.

- (d) *To provide appropriate height controls for commercial and industrial development.*

The proposal comprises a development of an appropriate height having regard to the aforementioned lack of impact and acceptable bulk and scale. Overall, the proposal has been designed to provide an efficient built form which responds appropriately to the site and town centre character without resulting in significant adverse impacts on adjoining land or the public domain.

- the development is consistent with the objectives for development within the zones in which the development is proposed to be carried out:

#### *B2 Local Centre*

1. *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.*

The development will contribute towards the range of uses in the town centre by providing further entertainment land uses to serve the needs of residents and visitors.

2. *To encourage employment opportunities in accessible locations.*

The development will generate employment opportunities at both the construction and operation phases. The site is in close proximity to regional bus routes and pedestrian and cycle paths which will continue to develop with the town centre.

3. *To maximise public transport patronage and encourage walking and cycling.*

The site is in close proximity to regional bus routes and pedestrian and cycle paths which will continue to develop with the Town Centre.

4. *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.*

This objective is not relevant to the development as it does not propose any residential development.

5. *To ensure that residential development does not preclude the provision of active uses at street level.*

This objective is not relevant to the development as it does not propose any residential development.

6. *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.*

The proposed Oran Park Tavern represents a higher density built form than is otherwise ordinarily seen in the Neighbourhood Centre or Mixed Use zones.

7. *To provide for residential development that contributes to the vitality of the local centre.*

The development does not propose residential development however will not prevent future residential development in nearby areas from contributing to the vitality of the local centre.

#### *R3 Medium Density Residential*

1. *To provide for the housing needs of the community within a medium density residential environment.*

The development does not propose residential development however will not prevent future residential development from catering to the housing needs of the community within a medium density residential environment or from meeting the residential density targets contained within the Oran Park DCP.

2. *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal provides entertainment and recreational land uses to meet the day to day needs of residents.

3. *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.*

The proposal provides entertainment and recreational land uses to support the wellbeing of the community. Impacts to adjoining future residential areas have been thoroughly assessed as part of this application and are considered to not be unreasonable.

4. *To provide for a variety of recreational uses within open space areas.*

The development will not prevent recreational uses from being provided within open space areas.

5. *To allow for small scale kiosks, function centres, restaurants and markets that support the primary function and use of recreation areas, public open space and recreation facilities located within residential areas.*

Function centre and restaurant components of the pub are proposed and will support the surrounding land uses.

#### *RE2 Private Recreation*

1. *To enable land to be used for private open space or recreational purposes.*

The effective boundary of the RE2 zone and riparian protection area was formalised as part of the Ron's Creek riparian corridor embellishment DA (DA/2018/1046/1). The portion of the unused riparian protection area to the west of Central Avenue was offset into other residential zoned areas now included in the riparian corridor. The minor encroachment of the pub on RE2 zoned land will not prevent the envisaged amount of land being used for private open space or recreational purposes.

2. *To provide a range of recreational settings and activities and compatible land uses.*

As above, further development of the small remaining portion of RE2 zoned land will not prevent a range of recreational settings and activities being provided on land used to offset the portion of RE2 land west of Central Avenue.

3. *To protect and enhance the natural environment for recreational purposes.*



Subject to compliance with the conditions attached to this report, the Ron's Creek riparian corridor will be protected from potential construction impacts from the proposed development.

4. *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.*

The embellishment of the Ron's Creek riparian corridor will act to preserve and maintain the natural value of the core riparian areas. The proposed Oran Park Tavern, subject to the recommended conditions, will not destroy, damage or have any other adverse effects on the natural values of the area.

5. *To ensure that residential development does not have an adverse effect on those values.*

This objective is not relevant to the development as it does not propose any residential development.

- The contravention relates to a small portion of the building where the 24m maximum building height steps down to 9.5m. The maximum proposed height in this area is 12.15m, being a maximum non-compliance of 2.65m, for less than 10% of the proposed development. As shown in the elevations below, the variation sought is relatively minor in comparison to the whole proposed development.

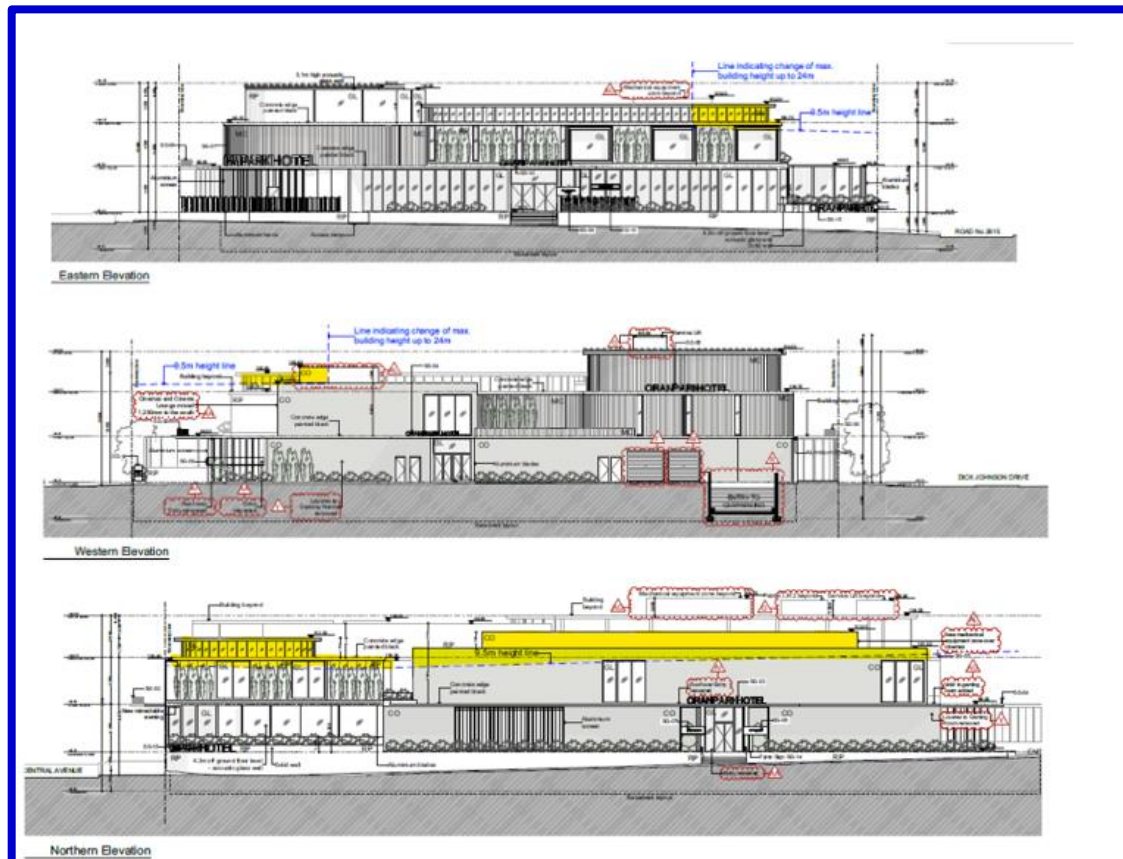


Figure 10: Elevations with the extent of the contravention highlighted.

- The elements that exceed the height limit are located such that they are unlikely to cause adverse impacts on adjoining sites or the public domain. Potential for future privacy and overshadowing issues is minimised through the design of the building as each storey steps in further from the perimeter roads.
- It is noted that the 9.5m maximum building height area includes an exception for residential flat buildings which are subject to an increased maximum building height of 16m. This means that future development of adjoining sites has the potential for buildings with a maximum height of 16m.
- The portion of the development that is subject to the 24m maximum building height has not taken advantage of the increased height.
- The minor contravention will act as a buffer to ease the transition between the 24m and 9.5m height limits.

It is noted that the Panel may assume the concurrence of the Secretary for this type of development standard in these zones.

Consequently, it is recommended that the Panel support this proposed contravention to Clause 4.3 – Height of buildings, Appendix 1 of the Growth SEPP.

#### State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State.

#### *Transport for NSW (TfNSW)*

The DA was referred to TfNSW for comment pursuant to Clause 104 of the ISEPP as, pursuant to Schedule 3, the development is classed as traffic generating development.

TfNSW did not raise any objections to the development.

#### State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 provides a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider if the site is contaminated. If the site is contaminated, the consent authority must be satisfied that it is suitable in its contaminated state for the development. If the site requires remediation, the consent authority must be satisfied that it will be remediated before the land is used for the development. Furthermore, the consent authority must consider a preliminary contamination investigation in certain circumstances.

The applicant has submitted a report prepared by Douglas Partners which undertakes a detailed review of the previous contamination reporting prepared for the site. This review confirms that there are two contamination assessments, one Site Audit Statement and one Audit Report relevant to the site which have been assessed under previous development applications.

The summary letter concludes that, based on the assessments, the subject site is suitable from a contamination perspective. Council staff have reviewed the

assessment, agree with its findings and are satisfied that the site is suitable for the development.

A standard contingency condition is recommended that requires any contamination found during construction to be managed in accordance with Council's Management of Contaminated Lands policy.

#### State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64)

SEPP 64 aims to ensure that signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations and is of high quality design and finish.

Clause 8 of SEPP 64 requires the consent authority to be satisfied that signage is consistent with the objectives of SEPP 64 and the assessment criteria specified in Schedule 1.

Council staff are satisfied that the signage is consistent with objectives of SEPP 64 in that it is compatible with the desired amenity and visual character of the area; will provide effective communication by displaying the development's name; and will be of a high quality design and finish. Council staff have also considered the assessment criteria in Schedule 1 of SEPP 64 and are satisfied that the signage is consistent with it.

#### Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20)

SREP 20 aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The development is consistent with the aim of SREP 20 and all of its planning controls. There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the development. Appropriate erosion, sediment and water pollution control measures have been proposed as part of the development.

***(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)***

#### Draft Environment State Environmental Planning Policy (Draft Environment SEPP)

The development is consistent with the Draft Environment SEPP in that there will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of it.

***(a)(iii) the provisions of any development control plan***

The development control plans that apply to the development are:

- Camden Development Control Plan 2011.
- Oran Park Development Control Plan 2007.

#### Camden Development Control Plan 2011 (Camden DCP)

#### *Planning Controls*

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The Camden DCP 2019 came into force on 16 September 2019. A savings provision means that any applications lodged before this date are assessed against the previous DCP, namely Camden DCP 2011. The subject DA was lodged on 16 May 2019 and has therefore been assessed against the Camden DCP 2011. An assessment table in which the development is considered against this DCP is provided as an attachment to this report.

### *Proposed Variation*

The application proposes a variation to Section B5.1 of the Camden DCP 2011 regarding off-street car parking provision.

Pursuant to the requirements stipulated in the Camden DCP the proposed development generates a demand for 791 off-street car parking spaces. Table 1 below illustrates the relevant car parking calculations under the DCP:

<b>Table 1: Camden DCP Car Parking Requirement Calculations</b>				
<b>Land Use</b>	<b>Rate</b>	<b>Type</b>	<b>Scale</b>	<b>Car Parking Required</b>
Pub / Registered club / Restricted Premises	1 car parking space per 2sqm GFA of public bar area, plus	Lounge Bar and Restaurant	526.1m <sup>2</sup>	105.2
		Dining Room	192.2m <sup>2</sup>	38.4
	1 car parking space per 5sqm GFA of lounge, beer garden, auditorium, billiard room, restaurant, plus	Garden Terrace/Atrium	517m <sup>2</sup>	103.4
		TAB	253.3m <sup>2</sup>	63.3
		Gaming Room	148.9m <sup>2</sup>	37.2
		Sports Bar	278.9m <sup>2</sup>	139.5
	25 car parking spaces per 100sqm of remaining public floor area.	Garden Terrace	123m <sup>2</sup>	24.6
		Small Bar	307m <sup>2</sup>	153.5
Restaurants and Cafés:	1 car parking space per 30sqm of GFA	Cafe	86.4	2.9
Take away food and drink premises	12 spaces per 100sqm GFA.	Wood Fire Kitchen	66m <sup>2</sup>	2.2
Cinema	<p>A detailed Car Parking and Traffic Impact Assessment Study may be required to be prepared for the proposed development.</p> <p>A traffic report was submitted in support of the application which recommended a parking rate for cinemas of 1 space per 5 seats.</p> <p>Council's Traffic Engineers have reviewed the report and are satisfied with this parking</p>	Cinema	80 seats	16

	rate.			
Function Centre	15 car parking spaces per 100sqm GFA room; or	Function Room	443.4m <sup>2</sup> / 198 seats	66
Education establishment (tertiary institution)	1 car parking space per 3 seats (whichever is greater). 1 car parking space per 5 seats or 1 space per 10sqm GFA, whichever is the greater.	Training Rooms	375.26m <sup>2</sup> 190 seats	38
			<b>Total:</b>	<b>791</b>

The applicant proposes to provide 295 spaces (183 on-site spaces and 112 spaces in an overflow car park). The DCP notes that Council will consider the peak demand of the uses as well as potential for dual use of parking spaces and a detailed car parking submission based on a similar club parking arrangement may be required. The DCP also notes that Council may consider variations to parking rates in certain circumstances that do not warrant demand and may be supported by a car parking and traffic impact assessment study submitted with a development application.

As a result, the applicant has submitted a detailed parking submission, prepared by a traffic engineer, in support of the DA.

#### *Variation Assessment*

Council's traffic engineer has assessed the applicant's parking submission and undertaken an analysis of the car parking demands of the development (with consideration of the layout of the development). It is recommended that reduced car parking rates be supported for the following reasons:

- The traffic report submits that the DCP rate for "Pub / Registered club / Restricted Premises" is unreasonable as it is overly onerous. Council's Traffic Engineers agree with this position and it is likely that the parking rate will be reduced as part of future DCP reviews. The traffic report lists six other venues that the consultant has been involved in parking studies for. The average maximum parking demand of the surveyed premises is 5.7 spaces per 100m<sup>2</sup> of GFA (compared to Council's DCP requiring up to 50 spaces per 100m<sup>2</sup>). This studied parking demand is based on the 50<sup>th</sup> percentile demand.
- The traffic report also compared the proposal against the Gregory Hills Hotel (GHH) approved under DA/2014/671/1. GHH has a total GFA of 2,252sqm and 165 car parking spaces. This equates to a rate of 7.3 spaces per 100sqm GFA, which is also equal to 85<sup>th</sup> percentile of demand based on the parking studies in the traffic report.

The report compares the expected accessibility to public transport for both sites based on the zoning and the respective objectives of each zone. The B2 Local Centre zoning of the Oran Park Tavern includes objectives relating to maximising public transport patronage and encourage walking and cycling whereas the B5 – Business Development zoning of GHH does not have a similar objective given its more industrial setting.



It is reasonable to assume that the GHH relies on the use of private vehicles at a higher rate than the proposed development given the lower availability of public transport and reduced proximity to residential dwellings. Hence why the 85<sup>th</sup> percentile is more appropriate provision for the GHH development.

- The surveyed parking demand figure of 5.7 spaces per 100sqm is considered more appropriate for the subject development (opposed to the 7.3 spaces per 100sqm of the GHH) for the following reasons:
  - The proposed development will be better serviced by public transport, through bus services in the short term and rail in the longer term,
  - The proximity to the Town Centre will lead to a high level of dual use trips which will further reduce parking demand. This will involve many patrons visiting two or more of the proposed land uses but parking at only 1 and walking between them due to their close proximity.
  - The subject development involves a variety of uses which will inevitably generate considerable dual use (for example, cinemas and dining areas).
  - The subject development involves uses such as training rooms which will experience different peak use time compared to other uses.
  - The envisaged future surrounding land uses as well as the existing open space to the east will experience peak use demand prior to the pub's evening peaks such that there will be a greater amount of on-street parking capacity during evening peaks.
  - The increase height limit in the Town Centre and surrounding residential zoned land will mean that a greater number of residents will be within walking distance of the development.

Nonetheless, utilising the higher rate based on the 85<sup>th</sup> percentile (equivalent to GHH) the proposed Tavern's GFA of 2,498.74m<sup>2</sup> equates to a demand for 182 spaces which is still able to be provided entirely on site.

- Using the surveyed parking demand rates of 5.7 or 7.3 spaces per 100m<sup>2</sup> GFA for the "Tavern" components of the development, the required car parking spaces are recalculated as follows:

<b>Table 2: Updated Car Parking Requirement Calculations</b>				
<b>Land Use</b>	<b>Rate</b>	<b>Type</b>	<b>Scale</b>	<b>Car Parking Required</b>
Pub / Registered club / Restricted Premises / Food and drink premises	<b>5.7 spaces per 100m<sup>2</sup> GFA (50<sup>th</sup> percentile town centre rate)</b>  <b><u>Or</u></b> <b>7.3 spaces per 100m<sup>2</sup> GFA (85<sup>th</sup> percentile GHH rate)</b>	Tavern	2,498.74m <sup>2</sup>	142  <b><u>Or</u></b> 182
Cinema	1 space per 5 seats.	Cinema	80 seats	16
			<b>Subtotal:</b>	<b>158 (<u>or</u> 198)</b>
Function	15 car parking spaces per	Function Room	443.4m <sup>2</sup> /	66

Centre	100sqm GFA room; or 1 car parking space per 3 seats (whichever is greater).		198 seats	
Education establishment (tertiary institution)	1 car parking space per 5 seats or 1 space per 10sqm GFA, whichever is the greater.	Training Rooms	375.26m <sup>2</sup> 190 seats	38
			<b>Subtotal:</b>	<b>104</b>
			<b>Total:</b>	<b>262 (or 302)</b>

- As shown in Table 2 above, the proposed development is expected to generate a parking demand of 262 spaces when all parts of the tavern (including both the training rooms and function room) are operating at capacity, but only 158 spaces when the training and function rooms are not in operation.

When the training rooms and function room are not in use, the parking demand can be catered for entirely by the 183 on site parking spaces.

When the training rooms and function room are in use, the parking demand of 262 can be serviced by the 295 spaces provided between the on-site car park and the proposed overflow car park. Users of the training room and function room will be directed to park in the overflow parking as part of booking and event details. Staff will also be directed to park in the overflow parking on days of peak parking demand (Friday nights, weekends and public holidays).

- As demonstrated above, based on the reduced park rate for the pub component of the development, the provision of 183 on-site spaces and 112 overflow car park spaces satisfies the development's parking demands. It is noted that the proposed development peaks on weekend evenings after 5pm which does not coincide with other uses within the town centre, particularly the nearby shopping centre.
- The development will include 12 bicycle spaces and 8 motorbike spaces which is in excess of the 7 spaces required for each.

Consequently, it is recommended that the Panel support this proposed variation to the parking controls contained in the Camden DCP.

#### Oran Park Development Control Plan 2007 (Oran Park DCP)

##### *Planning Controls*

An assessment table in which the development is considered against the Oran Park DCP is provided as an attachment to this report.

##### *Proposed Variation 1 – Transit Place*

'Figure 66: Public Transport Routes' (shown in Figure 11) identifies a 'Proposed Transit Hub' on the north-western corner of the Dick Johnson Drive and Central Avenue intersection, in the location of the proposed pub.

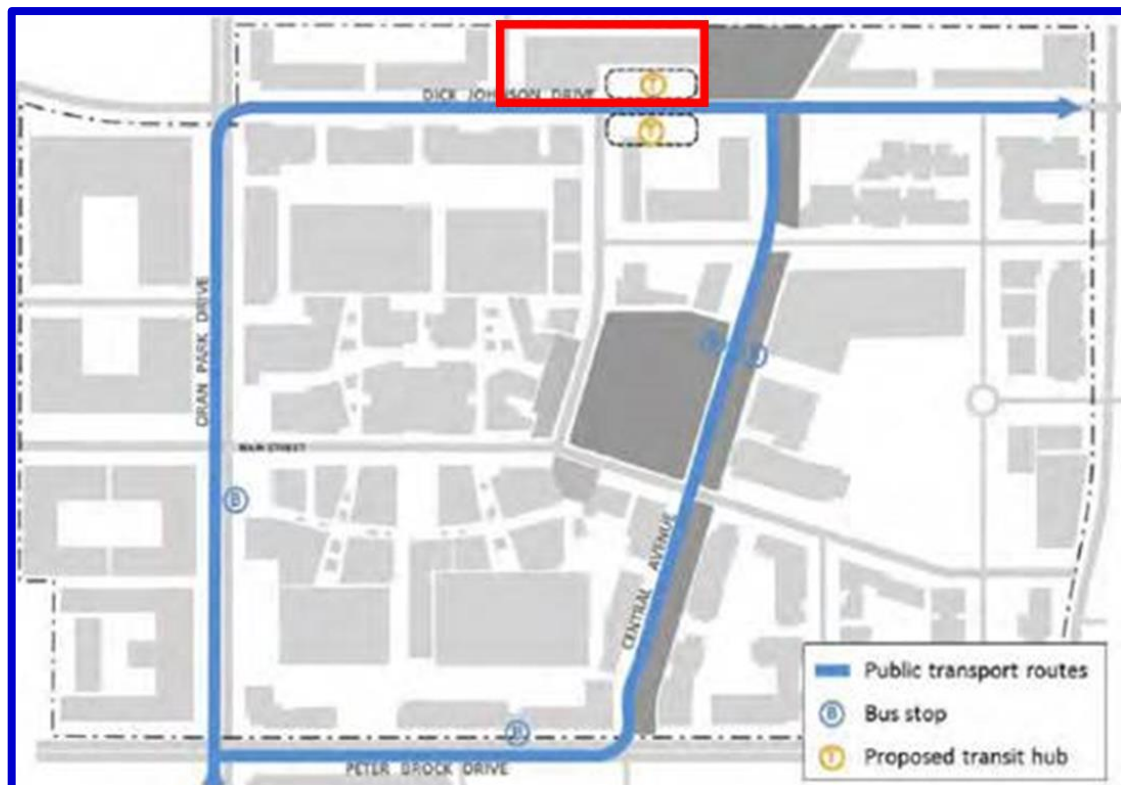


Figure 11: "Figure 66: Public Transport Routes" taken from Oran Park DCP.

#### Variation Assessment

Council staff have assessed this variation and recommend approval based on the following:

- The purpose of the Transit Place is to allow for the integration of local and regional transport services. Regional transport services would include buses to Leppington Railway Station.
- Since the introduction of the Oran Park DCP, the North South Rail Link corridor has been identified. Furthermore, as of June 2020, the NSRL corridor has been gazetted as seen in Figure 12.
- As such, the appropriate location for a future transit place is immediately west of the train station to allow for integration of different modes of transport.
- The application was referred to Transport for NSW for comment who advised that they had no objection to the proposed development proceeding.

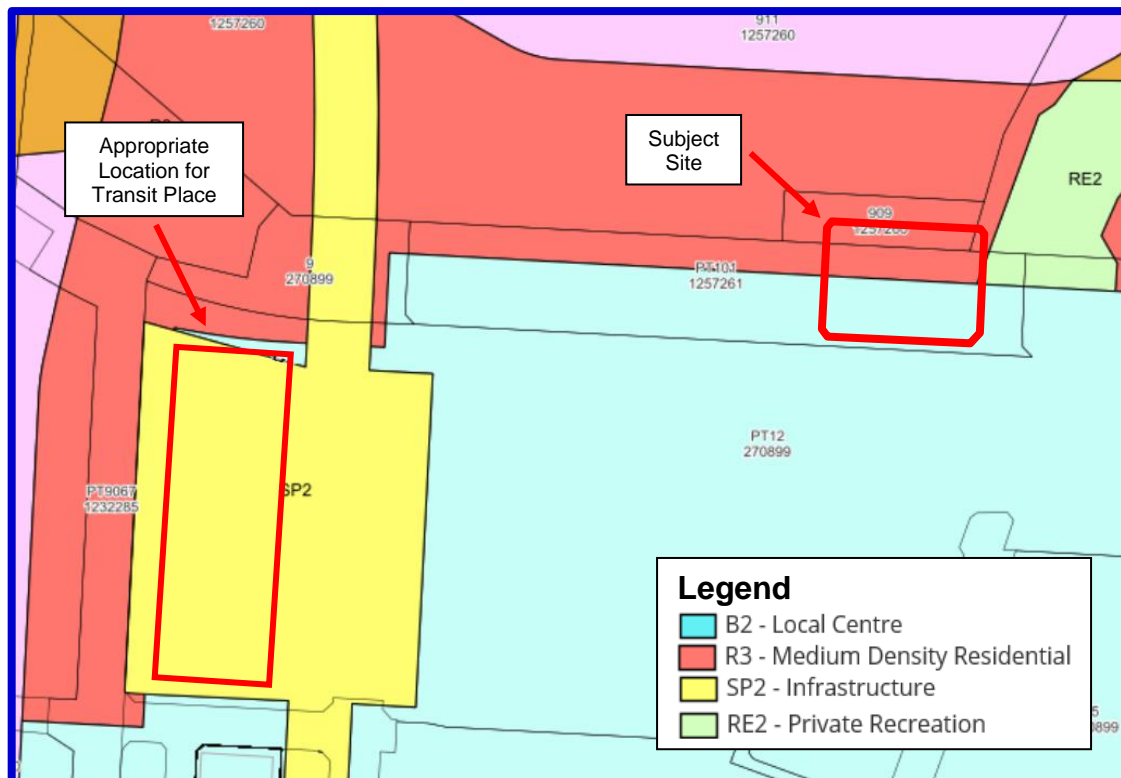


Figure 12: Identified NSRL corridor alignment with Subject Site and Appropriate Location for Transit Place labelled.

#### Proposed Variation 2 – Above Awning Sign

Section 7.9 of the Part B Oran Park Town Centre DCP does not allow above awning signs (signs that are attached to the top of an awning). The development proposes one awning over the road reserve with an above awning sign labelled as SG-02 on the architectural plans.

#### Variation Assessment

Council staff have assessed this variation and recommend approval based on the following:

- Sign 02 has been designed in conjunction with a suite of proposed signs for the Oran Park Tavern. The signage package has been considered in terms of place making and in relation to the scale of the building. The chosen single letter signage theme used throughout the site would not be as visually pleasing if attached to the face of the awning, under the awning, or on the building wall.
- The single letters will mean that the awning does not appear as bulky unlike if a solid sign of the same dimensions was proposed.
- The signs contribute to adding visual interest to the streetscape.

Consequently, it is recommended that the Panel supports the proposed variation to the Oran Park DCP 2007.

***(a)(iia) the provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4***

The site falls within land which is subject to the Oran Park Urban Release Area Voluntary Planning Agreement (VPA), signed in September 2011.

The Oran Park VPA provides for infrastructure and associated facilities within the Oran Park Town project, in lieu of payments under the Oran Park & Turner Road Precinct Contributions Plan.

The site is located within Stage N, as identified in the VPA. A number of facilities are required to be delivered prior to progression of the overall Oran Park precinct. The specific timing of these items generally relates to the number of approved final residential lots. No final residential lots are proposed by this application.

***(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The *Environmental Planning and Assessment Regulation 2000* prescribes several matters that are addressed in the conditions attached to this report.

***(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality***

As demonstrated by the assessment, the development is unlikely to have any unreasonable adverse impacts on either the natural or built environments, or the social and economic conditions in the locality.

Temporary Car Park

The initial parking assessment had a number of inconsistencies and was unable to justify the variation to the off-street parking requirements contained in Camden DCP 2011. Subsequent to a request for information, the applicant has expanded upon the traffic report which has resolved the inconsistencies but highlighted a deficit of 100 car parking spaces.

To address this deficit, the applicant has approached both the predominant landowner (Perich Property Unit Trust – PPUT) and developer (Greenfields Development Company No 2 – GDC2) in the area to come to an agreement to provide a temporary overflow car park off site consisting of 112 spaces. The temporary car park will remain in place until such time that underground car parking associated with the future Oran Park Podium Stage 3 is approved and becomes available to the public. PPUT estimates that Podium Stage 3 is within the 10-year Town Centre development timeframe (refer to the letters and plans from GDC and PPUT attached to this report that show their expected development staging of the Town Centre and surrounding areas between 2020 – 2035+).

A condition has been recommended that requires the temporary overflow car park to be constructed prior to the issue of any occupation certificate for the tavern. The design of the overflow car park will be representative of its temporary nature however will be of a sufficient standard to provide all weather access and will be constructed with a sandstone base layer and 2 coat flush seal. This will reduce the work required to decommission the car park (when required).

PPUT has provided a letter outlining the following commitments:



- PPUT gives its consent to GDC2 to construct a temporary car park,
- PPUT gives its consent to Momento Hospitality Pty Ltd, as operators of the Oran Park Tavern to use the temporary car park to supplement the Oran Park Tavern on-site parking.
- PPUT commits to allowing the use of the temporary overflow car park by Momento as supplementary car parking for the tavern until such time as underground car parking of Stage 3 of the future Podium Development is constructed and becomes available to the public.
- The letter also states that the car park will be used for town centre events from time to time. A condition of consent is recommended to prohibit the use of the training rooms and function centre on days where the Tavern will not have exclusive use of the overflow car park.

The most likely scenario is that the proportion of patrons arriving by car on dedicated trips to the Tavern will decrease as the Oran Park Town Centre and surrounding areas continue to develop. The longer term maturing of the Town Centre and surrounding areas will result in the transition of the Tavern from a 'destination venue' to a 'town centre pub' with a reduced parking demand. Ultimately an estimated 3,747 dwellings will be within an 800m or 10-minute walking distance of the Tavern. Included in this estimate is 1,600 residential apartments to be located in the Town Centre. Figure 13 shows the potential 800m catchment once development of the precinct nears completion.

Council is satisfied that the temporary overflow in conjunction with the onsite parking exceeds the peak total parking demand of 283 car parking spaces and is unlikely to result in any significant adverse impacts on the public domain or adjoining land.

Council is also satisfied with the commitment provided by PPTU to allow the use of the temporary overflow car park by Momento as supplementary car parking for the Tavern until such time as underground car parking of Stage 3 of the future Podium Development is constructed and becomes available to the public. It is expected that there will be ample opportunity for parking to be provided as part of Stage 3, especially given the peak periods of the Podium and the proposed Tavern differ.

To ensure a smooth transition between the proposed temporary car park and the future Podium Stage 3, a condition has been recommended that requires a modification application be submitted to assess and approve the removal of the overflow parking (when required).



Figure 13: 800m Catchment Plan

### Noise impacts

An acoustic assessment prepared by The Acoustic Group was submitted with the application. The report provides an assessment of noise from the pub on surrounding noise sensitive residential receivers.

Currently there are no buildings adjoining or immediately surrounding the site. Ron's Creek open space and riparian corridor will be located directly to the east with future medium density housing to be located further east. To the north will be medium density housing. To the west will be future mixed use development and to the south, future mixed use and commercial development.

The report recommends a number of controls to attenuate noise such as:

- Ground floor: closing of roof, glazing of terrace and increase in height to 4.3m, limit of patrons using outdoor spaces after midnight.
- Level 1: additional glazing, closing of bi-fold doors, installation of in house music system with noise limiter, ceasing activities at midnight.
- Level 2: additional glazing to height of 3.1 m, cease use at midnight.

The final project noise levels are considered to be conservative due to minimal development adjoining the site resulting in very low background levels at night. The ongoing development within the Oran Park area is likely to lead to higher background levels over time.

Council's environmental health officer has reviewed the report and considers it acceptable subject to the recommended conditions relating to the above noise control measures and selection of mechanical plant to be undertaken with the involvement of a qualified consultant to ensure that noise complies with the stated criteria for residential receivers.

***(c) the suitability of the site for the development***

As demonstrated by the above assessment, the site is considered to be suitable for the development.

***(d) any submissions made in accordance with this Act or the regulations***

The DA was publicly exhibited for a period of 30 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 5 June to 4 July 2019. No submissions were received.

***(e) the public interest***

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the development is consistent with the public interest.

**EXTERNAL REFERRALS**

The external referrals undertaken for this DA are summarised in the following table:

External Referral	Response
Natural Resources	General Terms of Approval or a Controlled Activity

Access Regulator.	Approval are not required.
Transport for NSW.	No objections relating to the traffic generating development or 'Proposed Transit Hub' components of the application.
Camden Police Area Command.	No objections and conditions recommended (which have been included in the recommended conditions attached to this report).

### **FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

### **CONCLUSION**

The DA has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

### **RECOMMENDED**

**That the Panel:**

- i. support the justification in the applicant's written request lodged pursuant to Appendix 1, Clause 4.6(3) of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to the contravention of the height of buildings development standard (Clause 4.3), and**
- ii. approve DA/2019/402/1 for the construction of the Oran Park Tavern at 41 and 76 Central Avenue, A Dick Johnson Drive, and B Civic Way, Oran Park subject to the conditions attached to this report.**