

D23/43074

REPORT TO

**CHIEF EXECUTIVE OFFICER
WESTERN REGION PLANNING PANEL MEETING
7 DECEMBER 2023**

FROM

SENIOR PLANNER (RISHELLE KENT)

DATE

4 OCTOBER 2023

ON

**DEVELOPMENT APPLICATION
7 MURPHY LANE AND 415 MITCHELL HIGHWAY, ORANGE
EDUCATIONAL ESTABLISHMENT (DEMOLITION, NEW BUILDING AND
750 STUDENTS)**

PR29119 - IC21/32224

Application Lodged

14 December 2021
615 stop days

Development Application No

DA 551/2021(1)

Plan No/s

The Anglican Schools Corporation, drawings:
DA-A01 Rev L, DA-A04 Rev L, DA-A08 Rev L,
DA-A09 Rev L, DA-A10 Rev L, DA-A11 Rev L,
DA-A12 Rev L, DA-A13 Rev L, DA-A20 Rev L,
DA-A21 Rev L (10 sheets)

Applicant

Rossmark Pty Ltd
11 Erskine Road
CARINGBAH NSW 2229

Owner/s

Anglican Schools Corporation
PO Box 465
HURSTVILLE NSW 1481

Land Description

Lot 201 DP 1276846, Lot 1 DP 1286548 -
7 Murphy Lane and 415 Mitchell Highway, Orange

Proposed Land Use

Educational establishment (demolition, new
building and 750 students)

Value of Proposed Development

\$5,735,149.00

Provisions of LEP 2011 (amended)

Zone R5 Large Lot Residential

Details of Advertisement of Project

Advertised for 14 days

Recommendation

Approval subject to conditions

EXECUTIVE SUMMARY

Application lodged	14 December 2021
Applicant/s	Rossmark Pty Ltd
Owner/s	Anglican Schools Corporation
Land description	Lot 201 DP 1276846 and Lot 1 DP 1286548 - 7 Murphy Lane and 415 Mitchell Highway, Orange
Proposed land use	School (demolition, new building and 750 students)
Value of proposed development	\$5,735,149.00

Development consent is sought for an *educational establishment (demolition, new building and 750 students)* at 7 Murphy Lane and 415 Mitchell Highway, Orange. The land is described as Lot 201 DP 1276846 and Lot 1 DP 1286548. The site is occupied by Orange Anglican Grammar School.

The development comprises an increase in student numbers from 500 to 750; construction and use of a new three storey building comprising eight classrooms and undercroft storage, with facilities including amenities, lift, storage, terraced seating platform, covered BBQ area and COLA. Demolition of an amenities block and relocation of an existing shed will also be carried out.

The development requires referral to TfNSW pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*. TfNSW have provided their approval and conditions.

The land is zoned R5 Low Density Residential. An educational establishment is a permitted use in the zone pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The application was publicly advertised for 14 days as per Council's Community Participation Plan. One submission was received outside of the exhibition period. These concerns have been considered during the assessment process.

Extensive consultation has been undertaken between the proponent, Transport for NSW (TfNSW) and Orange City Council (OCC) regarding the failure of the Murphy Lane/Mitchell Highway intersection at peak school times (drop off and pick up), and the options to alleviate such. The result of these discussions is a revised plan of management, known as the OAGS Student Travel Policy, whereby the school will commit to allowing a maximum of 420 students in/420 students out via private vehicle, with the remaining enrolment to be transported by bus and/or pedestrian and cycling means (once the footpath is connected in 2024). Attached is a recommended condition of consent requiring certain amendments to the OAGS Student Travel Policy. This is acceptable to all parties.

Furthermore, concern was raised with the initial design of the 3-storey building, with unacceptable bulk, character, visual impacts and land use conflicts considered to detrimentally impact the neighbour to the east. These issues have now been resolved with an amended design response.

Pursuant to Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* the proposed development is declared to be regionally significant development for the purposes of the Act. The Western Region Planning Panel, on behalf of the Minister for Planning, is the consent authority.

The proposal has been evaluated pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* and is considered to be suitable subject to the attached Notice of

Approval. It is recommended that the Western Region Planning Panel supports the subject proposal, subject to the attached conditions.

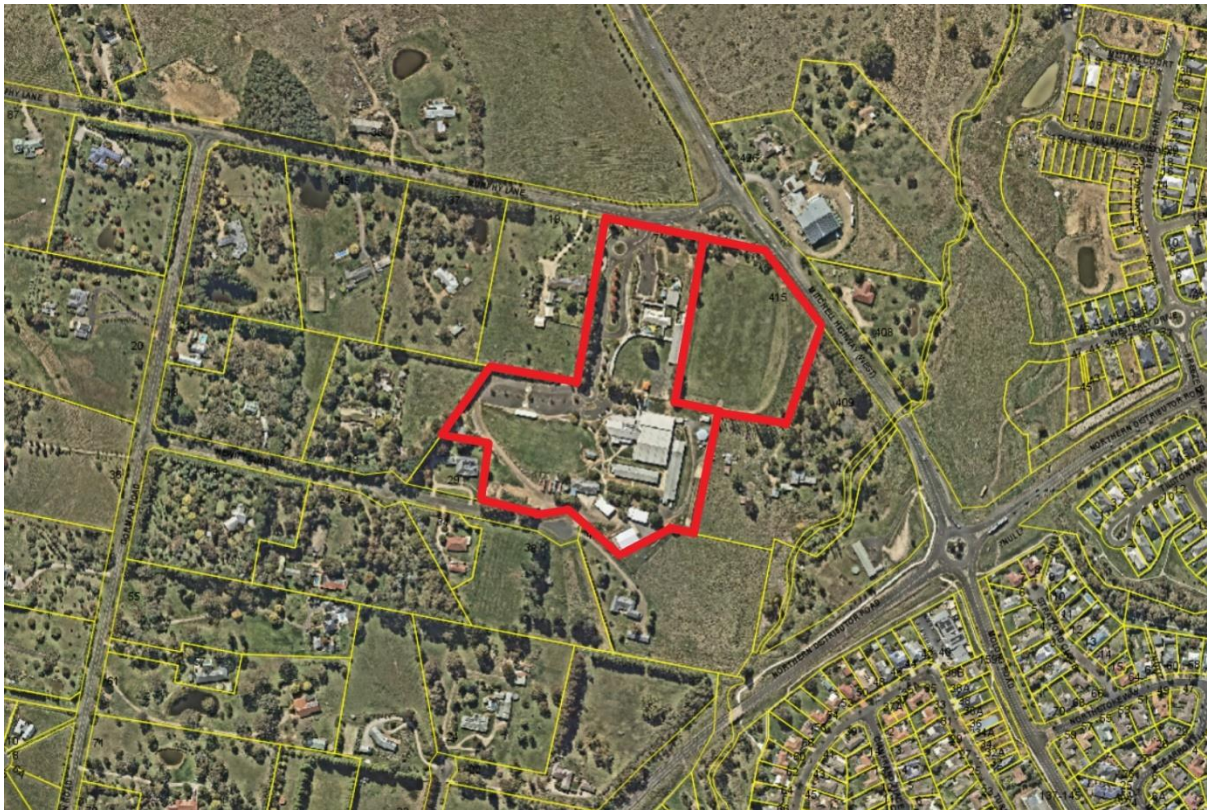


Figure 1 - locality plan

DECISION FRAMEWORK

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004.

Orange Local Environment Plan 2011 - The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

Orange Development Control Plan 2004 - the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative way.

RECOMMENDATION

That Council consents to development application DA 551/2021(1) for *educational establishment (demolition, new building, 750 students)* at Lot 201 DP 1276846 and Lot 1 DP 1286548 - 7 Murphy Lane and 415 Mitchell Highway, Orange pursuant to the conditions of consent in the attached Notice of Approval.

THE PROPOSAL

The proposal comprises:

- an increase in student numbers from 500 to 750,
- the construction of the 'Trinity Building' to the south of the oval, with a height of three storeys and constructed of steel roofing and wall cladding interspersed with concrete block walls, with:
 - five classrooms at ground level
 - three classrooms with a large covered outdoor learning area at the second level, and
 - a subfloor storage area with roller doors fronting the school oval
- a terraced seating platform area built into the slope of the land down to the playing field,
- ancillary development such as footpaths and covered walkways, BBQ and service area, toilet facilities, lift access, storage,
- demolition of an amenities block and removal of a shed for relocation (yet to be determined) including concrete pads, and
- landscaping of the eastern boundary adjacent to the new building.

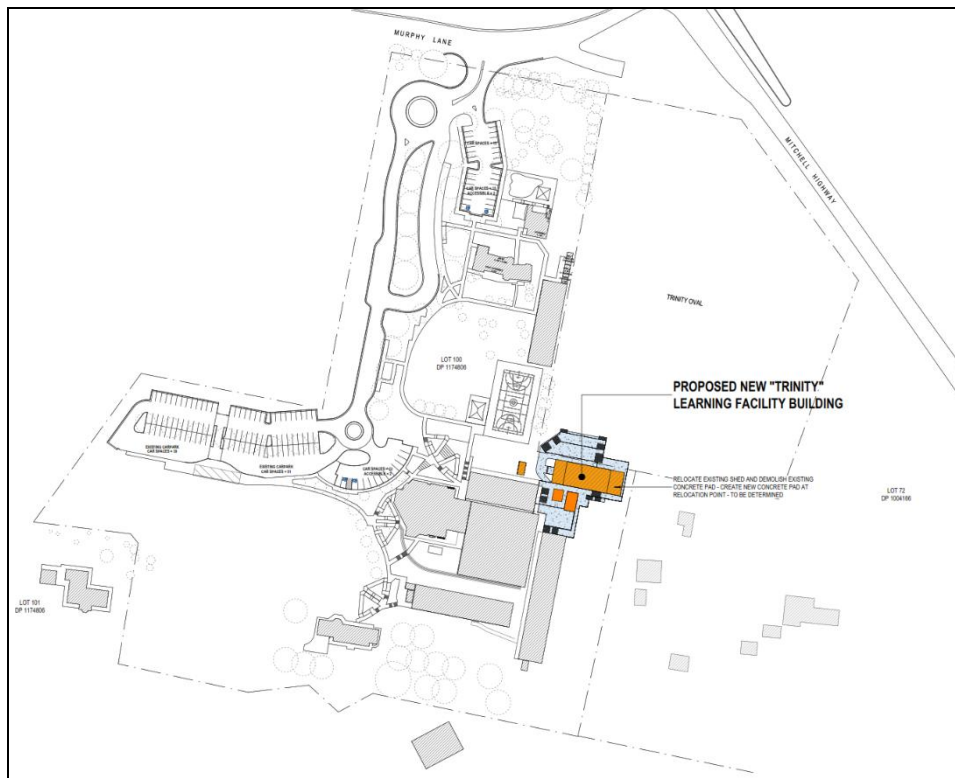


Figure 2 - site plan

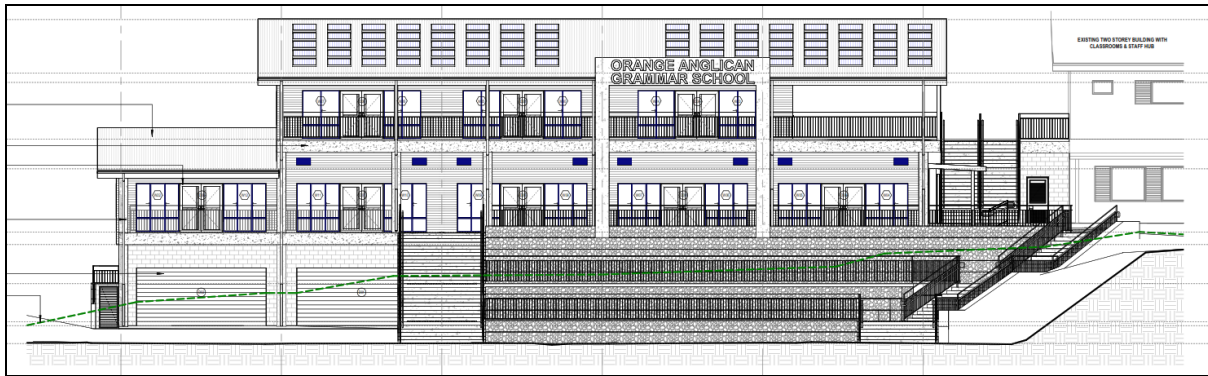


Figure 3 - northern elevation

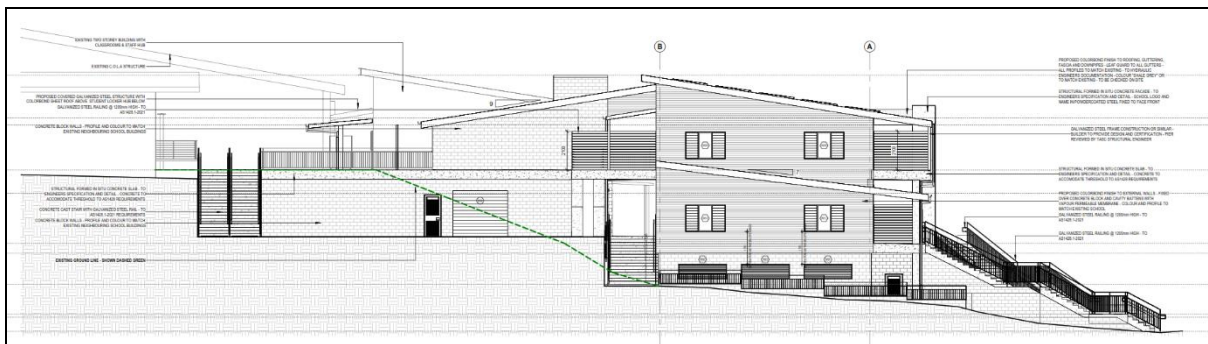


Figure 4 - eastern elevation

SITE HISTORY

The site is located within a rural residential area, approximately 3.7km north west of the CBD of Orange, and surrounded by larger dwellings on approximately 2ha allotments. Vehicular access is available via Murphy Lane and Hewitt Close, whilst the playing field has frontage to Mitchell Highway (with no direct access).

The school commenced operations on the site in 2009, and operates under the following consents:

- DA 314/2008(1) was approved on 18 November 2008 for 175 students and eleven staff.

This consent has been modified a number of times over the years, with regards to:

- pedestrian access (to defer timing of the provision of pedestrian access to the school, provide a trial period and then permanently allow pedestrian/bicycle access from Hewitt Close with restrictions on the number and residency of who could access the Hewitt Close pedestrian facility);
- contributions (timing);
- signage (illumination, solar panels);
- reduce a building footprint; and
- to extend and then permanently allow the temporary classrooms and amenities.
- DA 341/2009(1) sought consent for 250 students, allow pedestrian access via Hewitt Close, conversion of a dwelling into three classrooms, carry out land shaping works and construct a twelve space car park. This consent has been modified a number of times also.

- DA 374/2010(1) sought consent for 500 students, land shaping works, a car park and kiss-and-drop bay, and tree removal. This consent has also been modified a number of times to include a bus shelter and to allow construction vehicles with a GVM of greater than 8 tonne to utilise the Hewitt Close access.

Other consents comprise approvals for subdivision, a front fence, demolition of a dwelling and construction of a sports oval, an out-of-school-hours care program, a place of public worship, alterations and additions to an administration building for a prep school facility, and an agricultural learning shed. In addition to this, a number of complying development certificates have been issued for the school.

Operations

The hours of operation are standard school hours (including afterhours parent/teacher interviews, school exhibitions, opening nights and the like). The following hours of operation and student and/or attendance numbers have been advised for particular land uses as follows:

- Place of public worship - Sundays 9.30am (180 people), 4pm (120 people), 6.30pm (80 people)
- Before and after school care - Monday to Friday 7am to 8.45am, 3.05pm to 6pm with vacation care (school holidays) operating 7am to 6pm. This is limited to 45 child care places.
- Transition program operating 5 days a week from 9am to 3pm during school terms.
- Use of the sports oval - Monday to Sunday 7.30am to 6pm.

OAGS Student Travel Policy

The School operates under a plan of management known as the OAGS Student Travel Policy, which restricts pedestrian and bicycle access to the school via Murphy Lane. This policy has been in place since the commencement of the school at this location, due to the unsatisfactory pedestrian arrangements between the school site and the urban population and the location on and proximity to two main arterial roads.

Notwithstanding the above, consent was previously granted to allow pedestrian and bicycle access from Hewitt Close for approximately 17 students and staff, restricted to those who live within the vicinity (north of The Escort Way, west of the Northern Distributor Road).

A revised OAGS Student Travel Policy has been submitted in order to alleviate traffic impacts as a result of the proposed works. This Policy allows a maximum of 420 students in/420 students out by private motor vehicle, and suggests the Policy to be operational from the Occupation Certificate of the Trinity building.

A shared footpath/cycleway is currently being constructed along Mitchell Highway and across the Northern Distributor Road. This is expected to be operational by July 2024, at which time the restriction of pedestrian/bicycle access to the site will become redundant.

MATTERS FOR CONSIDERATION

Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994*

Pursuant to Section 1.7:

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

In consideration of this section, the development is not likely to give rise to any significant impact upon any endangered ecologically communities, threatened species or their habitat:

- The subject land is not identified as biodiversity sensitive on the Orange LEP 2011 Terrestrial Biodiversity Map.
- The proposal does not involve removal of native vegetation. Clearing thresholds prescribed by regulation are not relevant to the application.
- The development site is a highly modified urban environment. There is no record of threatened species on the subject or adjoining land, pursuant to the BioNet Atlas. The BioNet Atlas lists sightings of a galah and magpie on the site, neither of which are a threatened species.

Based on the foregoing consideration, a Biodiversity Assessment Report is not required and the proposal suitably satisfies the relevant matters at Section 1.7.

Section 4.15

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, of which those pertaining to the application are listed below.

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)

Orange Local Environmental Plan 2011

Clause 1.2 - Aims of Plan

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

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

With regard to Aim (a), the proposed development is a 2-3 storey educational building of compatible bulk and scale to other buildings on the school site. There is an obvious disparity of scale to the surrounding residential development of the locality, however, the impacts are mitigated by design elements and setbacks incorporated into the proposed development.

In relation to Aim (b), it is considered the proposal will contribute to the social, economic and environmental resources of the City.

In relation to Aim (c) the proposed development will have a neutral effect. There are no significant changes to drainage patterns proposed as a result of the proposed development, and water conservation measures will remain.

In relation to Aim (f), the site is mapped as Scenic Protection. Landscaping of the eastern elevation of the building will be required to a height and width sufficient to prevent sky lining of the building when viewed from the urban area. This is discussed further within the report.

Clause 1.7 - Mapping

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

Land Zoning Map:	Land zoned R5 Large Lot Residential
Lot Size Map:	Minimum Lot Size 2ha
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

Clause 1.9A is applicable and states in part:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

In consideration of this clause, Council staff are not aware of the title of the subject property being affected by a relevant agreement, covenant, etc.

A review of the DP plan indicates a ROW 5.635 wide across the site of the new building footprint (refer to Figure 3 below). This ROW was created for the purpose of historical access. The ROW is considered redundant, as legal and practical access for Lot 103 DP 1178849 can be gained from Hewitt Close, and does not require access through the school grounds to Mitchell Highway.

The title is also affected by easements for sewer, drainage and electricity. The most recent (amended) plans submitted to Council indicate a revised siting for the covered BBQ, now located on a sewer manhole and over a sewer easement. A condition will be imposed requiring the relocation of the covered BBQ clear of the sewer infrastructure and easement.

It is also recognised that the proposed building is to be constructed across a dividing property boundary. As such, a plan of consolidation will be required to ensure the school

oval (Lot 1 DP 1286548) is consolidated with the school proper (Lot 201 DP 1276846). A condition has been attached to this effect.

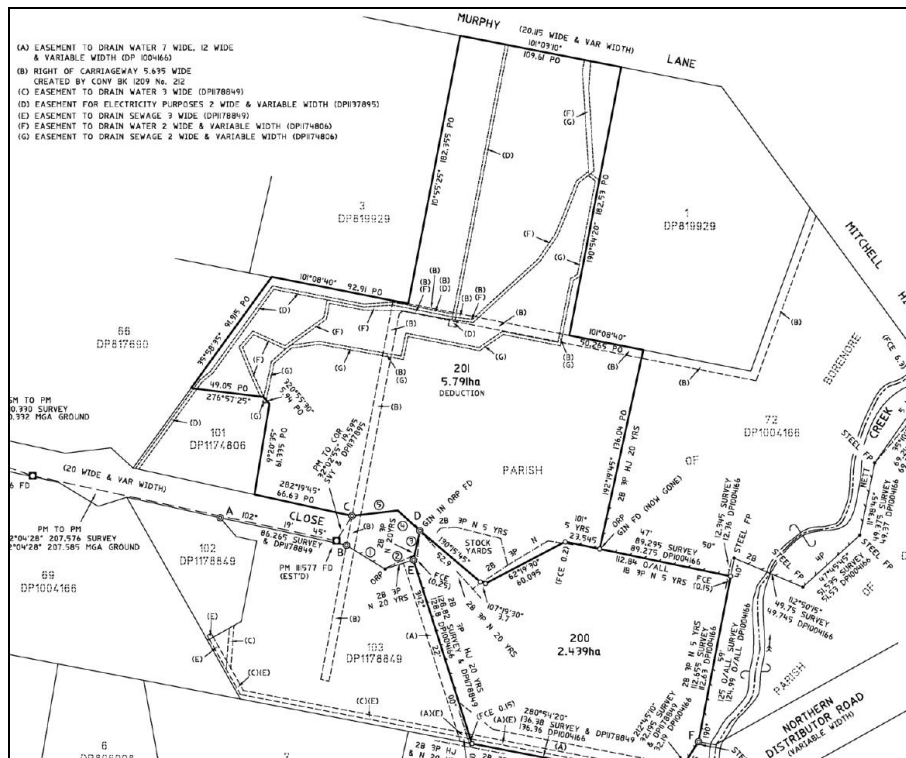


Figure 5 - deposited plan

Clause 2.1 - Land Use Zones and Clause 2.3 - Zone Objectives and Land Use Table

The subject site is located within the R5 Large Lot Residential zone. The proposed development is defined as an *educational establishment (school)* and *demolition* under OLEP 2011 and the Act, and is permitted with consent pursuant to Section 3.36(1) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The relevant objectives of the R5 zone include:

- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- 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.

The proposed development is not inconsistent with the relevant provisions of the zone. The development will not unreasonably increase the demand for public services or public facilities. Water and sewer is currently available to the school, an increase in ET's has been attributed to the development to cater for the increase in student numbers.

The development was appropriately redesigned to reduce conflict between land uses (educational establishment vs large lot residential), and this will be discussed within the report.

Condition (26) of DA 341/2009(2) currently restricts students or employees walking to the main entrance of the school site via a plan of management (known as the OAGS Student Travel Policy) due to the proximity to two arterial roads and the lack of pedestrian access to

the school. A condition also requires OAGS to design and construct pedestrian access to the school, however it is understood that this is currently under construction by Council.

With the opening of the pedestrian footpath by July 2024, students and staff of the school will be encouraged to walk and cycle to the campus via the Travel Policy. This will alleviate the current traffic safety concerns which are discussed further in this report.

The objectives of the zone can be achieved.

Clause 2.7 - Demolition Requires Development Consent

This clause triggers the need for development consent in relation to a building or work.

The proposal involves demolition of an amenities block and dismantling of a maintenance shed. The applicant is seeking the consent of council. The demolition works proposed will have no significant impact on adjoining lands, streetscape or public realm.

The new location of the shed has not been provided to Council. A condition requiring amended plans indicating the new location shall be submitted to Council prior to the issue of the Construction Certificate.

5.21 - Flood Planning

The site is identified on the Flood Planning Map, although flooding is modelled to occur on the sports oval only.

In this regard the proposed development is unlikely to change flooding behaviour on or off the site and is unlikely to adversely affect the safe occupation and efficient evacuation of people from the site. Further, the development is unlikely to cause or contribute to erosion, siltation or reduce riparian vegetation.

7.1 - Earthworks

The construction of the Trinity Learning Facility will require a cut of 2435m³. A total of 820m³ of soil will be reused, with the remaining 1615m³ of soil to be disposed of at the Ophir Resource Recovery Centre. The site is not known to be contaminated.

The extent of disruption to the drainage of the site will not detrimentally affect adjoining properties or receiving waterways, nor will it materially affect the potential future use or redevelopment of the site that may occur at the end of the proposed development's lifespan.

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

The site is not known to contain any Aboriginal, European or Archaeological relics. Previous known uses of the site do not suggest that any relics are likely to be uncovered. However, a condition regarding unexpected finds will be imposed to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities.

The site is not within the prescribed proximity to any waterway, drinking water catchment or sensitive area. Conditions will require a sediment control plan, including silt traps and other protective measures, to ensure that loose dirt and sediment does not escape the site boundaries.

7.2A - Floodplain Risk Management

This clause applies to land identified between the flood planning level and the level of the probable maximum flood, but does not apply to land at or below the flood planning level and requires that, before any consent is issued, Council must be satisfied of the following:

- (3) *Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land -*
- (i) *educational establishments.*

The school is an existing landuse, and the mapped area is contained on the school oval only. As such, the development will not affect the safe occupation, or evacuation from, the site in the event of flood events exceeding the flood planning level. 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.

7.3 - Stormwater Management

Council's Assistant Development Engineer requires a re-assessment of the existing stormwater detention system given the increased impervious area under this proposal. A condition has been attached to this effect.

7.6 - Groundwater Vulnerability

The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion. The design and siting of the proposal avoids impacts on groundwater and is therefore considered acceptable.

Clause 7.11 - Essential Services

In consideration of this clause, all utility services are available to the land and adequate for the proposal.

Potable water, reticulated sewerage and electricity are available to the site.

Stormwater is to be directed to the onsite stormwater detention basin, and may require works as previously considered.

The main access to the site is via Murphy Lane, which does not require upgrading works as a result of this application. A secondary access is available to Hewitt Close, which shall also remain in its current form.

STATE ENVIRONMENTAL PLANNING POLICIES

The following SEPPs are applicable to the proposed development:

State Environmental Planning Policy (Resilience and Hazards) 2021

In consideration of Clause 7, it is unlikely that the subject land is contaminated. The development site has longstanding educational use; is not located within an investigation area; and is not known to have been used for a purpose listed in Table 1 to the contaminated land planning guidelines.

The proposal does not involve a *change of use* for educational purposes (Clause 7(4)), but rather a continuation of the existing educational use of the land. A detailed contamination investigation is not required for the proposed development.

Council's Senior Environmental Health Officer confirms:

Site is already used as a school and the construction area already has school infrastructure on it. Contamination unlikely. An unexpected finds condition has been applied.

State Environmental Planning Policy (Transport and Infrastructure) 2021

SEPP (Transport and Infrastructure) 2021 applies to educational establishments and is applicable to this development application.

Part 3.36 Schools - development permitted with consent allows for the development for the purpose of a school, and states the consent authority must take into consideration:

- (a) The design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and
- (b) Whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

In consideration of the applicable clauses:

- The proposed development is permitted within consent on the subject land [prescribed zone R5 Large Lot Residential].
- The proposal will satisfy the design principles established in Schedule 8, as discussed below.
- The development does not propose the use of these school facilities to be shared with the community, however the place of public worship on the site is available for members of the community.

Schedule 8 Design quality principles in schools - Chapter 3

Principle 1 - context, built form and landscape

- The Trinity Building has been designed to integrate with the existing educational facilities in terms of form, materials and accessibility.
- The new building adopts an increased setback from Mitchell Highway and sits behind the front building line of buildings upon the site.
- New landscaping will be provided along the eastern boundary to minimise visual impact on the neighbour and Northern Distributor Road (NDR).

Principle 2 - sustainable, efficient and durable

- The proposed building will incorporate energy efficiency principles in the design and will be subject to Section J of the NCC.
- Rainwater tanks are existing and will capture stormwater from the development.

Principle 3 - accessible and inclusive

- The proposed building will connect with the existing school buildings group via pedestrian pathways.

- The proposed building will be accessible to people with differing needs and capabilities in accordance with AS1428, inclusive of a lift.
- By its very nature the proposal will not involve community use of the building; notwithstanding, the place of public worship within the school grounds is accessible to the public.

Principle 4 - health and safety

- The new building will provide a satisfactory standard of student classrooms.
- Crime prevention measures are included in the building design and siting.
- The proposal will not alter existing site operational arrangements in relation to access and security.

Principle 5 - amenity

- The proposed building aims to respect the amenity of its eastern neighbours by stepping back the bulk of the building and providing privacy screening through louvres and landscaping of the boundary.
- The proposed development will not increase noise upon residential receivers, subject to mitigation measures as conditioned.
- The building provides appropriate indoor and outdoor spaces such as classrooms and outdoor learning spaces. The building provides large areas of glazing with access to sunlight, natural light and ventilation.

Principle 6 - whole of life, flexible and adaptive

- The proposal involves a purpose-built educational space that may be adapted for associated uses.
- Large sliding doors between classrooms allows the teaching space to accommodate small or large gatherings.

Principle 7 - aesthetics

- The form and finish of the new building is similar to other classrooms on the site and adopts a similar design language to recent buildings constructed within the campus.
- The proposal will be visible from the public domain, however given the large setback, will not dominate the Mitchell Highway frontage. Landscaping of the eastern boundary will assist in screening the side of the building from the NDR.

Clause 3.58 Traffic Generating Development sets out when an application needs to be referred to Transport for NSW (TfNSW). The clause requires:

- (1) *This section applies to development for the purpose of an educational establishment -*
- (a) *that will result in the educational establishment being able to accommodate 50 or more additional students, and*
- (b) *that involves -*
- (i) *an enlargement or extension of existing premises, or*
- (ii) *new premises,*
- on a site that has direct vehicular or pedestrian access to any road.*

- (2) *Before determining a development application for development to which this clause applies, the consent authority must -*
- (a) *give written notice of the application to Transport for NSW (TfNSW) within 7 days after the application is made, and*
 - (b) *take into consideration the matters referred to in Subsection (3).*
- (3) *The consent authority must take into consideration -*
- (a) *any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
 - (b) *the accessibility of the site concerned, including*
 - (i) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (ii) *the potential to minimise the need for travel by car, and*
 - (c) *any potential traffic safety, road congestion or parking implications of the development.*
- (4) *The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.*

The proposed development involves an enlargement of the existing school by 250 additional students, on a site with direct access to Murphy Lane and Hewitt Close, therefore referral to TfNSW was required. Referral was received on 25 September 2023, and shown below in Figure 6.

Transport and traffic considerations are discussed below under ‘the likely impacts’.

Recommended Considerations / Conditions

1. Private vehicle capacity

TfNSW recommends a condition being imposed on this consent that states:

- No more than 420 students per day are to arrive at and leave school by private motor vehicle (420 in/420 out). The proponent is to provide six monthly reports to Orange City Council demonstrating compliance with this condition.

2. Advice to Council

- Council should ensure appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- All matters relating to internal arrangements on-site such as traffic / pedestrian management, parking, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to consider.
- With an increased commitment for buses to convey students to and from school, Council should ensure that adequate area is available onsite for bus parking and safe student drop off/pick up activities.

3. Molong Road / Murphy Lane

TfNSW requests as progressive developments occur within this intersection catchment, discussions on the above intersection continue with all stakeholders (including the school).

Figure 6 - TfNSW referral

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)

Council's Community Participation Plan is currently on exhibition and relates to the subject land or proposed development.

Under the Draft CPP, an educational establishment is required to be notified to neighbours when occurring in a residential area. Notification to neighbours occurred for a period of 14 days.

DESIGNATED/INTEGRATED DEVELOPMENT

The proposed development is not designated or integrated development.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)

Development Control Plan 2004

Development Control Plan 2004 applies to the subject land. An assessment of the proposed development against the relevant Planning Outcomes are undertaken below.

PO 0.4-1 INTERIM PLANNING OUTCOMES - SCENIC AREAS

- 1 Development blends into the landscape through the use of appropriate siting, design, external materials and colours, retention of trees including remnant vegetation, establishing of new trees, and enhancing the skyline when viewed either from the urban area of Orange or from public places in the vicinity of the land.

The site falls within the scenic area to the west of Orange. Whilst the development site is not mapped as scenic protection, the intent of the scenic area is to blend built form with the landscape along the western ridgeline, and to prevent the skylining of buildings.

The building will be clad in Colorbond steel with concrete blockwork, industrial roller doors and concrete panels. Galvanised steel railings will provide screening and security. Colours such as Wallaby and Monument have been notated on the plan, however these are described as being finishes on wall cladding for the Admin/Library building. As such, a condition will require a schedule of colours and finishes to be approved prior to the issue of the Construction Certificate, to ensure the colours will blend to the environment and recede from view.

Given the height of the building at 11.5m, the proponent was requested to screen the eastern elevation from the neighbour and Northern Distributor Road (NDR) to the east. Amended plans indicate six x Lombardy Poplars along the eastern fence line, whilst the SoEE indicates White Cypress Pine.

Council's City Presentation Manager requests these trees to be Pin Oak *Quercus palustris* 'Pringreen' Green Pillar, planted at 6m centres, for the length of the eastern elevation. These trees are suitable for the Orange climate, have an expected mature height of 14m and will assist in screening the height of the built form when viewed from the east. These trees are to be protected by a suitable garden bed, free from vehicle manoeuvring. A condition has been imposed to this effect.

The view of the built form from Mitchell Highway will not be as pronounced given the large setback, and therefore landscaping is not required along the northern boundary.



Figure 7 - scenic protection area (in green)

PO 0.4-5 INTERIM PLANNING OUTCOMES - MURPHYS LAND AND GORMAN ROAD

- 1 Development of land within the area comprises rural style fencing and does not comprise coloured metal fencing.
- 2 Development of land within the area is accompanied by a landscape plan that demonstrates how the buildings will be blended into the landscape.
- 3 Development of land within the area is landscaped to effectively prevent skylining of buildings.
- 4 Development of land within the area comprises rural style fencing and does not comprise coloured metal fencing.
- 5 Development of land within the area is accompanied by a landscape plan that demonstrates how the buildings will be blended into the landscape.
- 6 Development of land within the area is landscaped to effectively prevent skylining of buildings.
- 7 Ancillary buildings and outbuildings are located behind the front building line of the main dwelling and provided with screen landscaping when viewed from the public road.
- 8 Rainwater tanks are preferably located behind the main building or outbuilding and may be buried.
- 9 Where permitted by the minimum lot size map of the LEP all subdivisions creating lots below 2ha must provide reticulated sewer to lots below 2ha.

The development does not propose new fencing. The fencing on the eastern boundary comprises rural fencing and is not intended to be replaced as a result of this development.

Landscaping and skylining have been previously discussed.

Rainwater tanks will be located behind the new Trinity building, and will not be visible to Mitchell Highway.

Reticulated sewer is available to this site.

PO 3.1-1 PLANNING OUTCOMES - CUMULATIVE IMPACT

- 1 Applications for development demonstrate how the development relates to the character and use of land in the vicinity.
- 2 The introduction of new development into a locality maintains environmental impacts within existing or community-accepted levels.
- 3 Water conservation measures are implemented.

The Orange Anglican Grammar School is a fairly recent established land use within this precinct. Construction commenced in 2009 and the school has exhibited ongoing expansion since. Whilst the initial application to develop a school at this site resulted in many objections from neighbours and the community, the lack of objections to recent development/s on the site indicates a general acceptance of this landuse in this setting.

The proposed building relates to the character of the area by integrating with the existing educational facilities in terms of form, materials and accessibility, and acts as a natural continuation of educational purposes for the site.

Rainwater tanks will remain in-situ and provide adequate water conservation measures.

PO 3.2-1 PLANNING OUTCOMES - SCENIC, LANDSCAPE AND URBAN AREAS

- 1 Development incorporates landscaping that enhances the landscaped setting of the locality.
- 2 External finishes, materials and colour schemes of development complement its setting.

The colour schedule and landscaping of the development has been previously addressed.

PO 15.6-1 PLANNING OUTCOMES – OFF-STREET CAR PARKING

- 1 Adequate off-street car parking is provided in accordance with the Table or, alternatively, according to an assessment that demonstrates peak-parking demand based on recognised research.
- 2 Car-parking areas are designed according to Australian Standard.
- 3 Car-park areas include adequate lighting and landscaping (preferably deciduous shade trees), which provides for the personal security of users.
- 4 Bicycle-parking facilities are provided according to the relevant Australian Standard.
- 5 Facilities for loading and unloading of commercial vehicles are provided according to the relevant Australian Standard.

Pursuant to DCP 2004, the minimum onsite parking requirement for schools is:

- *one space for every two employees and one space per ten students over 17 years of age.*

The Traffic Impact and Parking Assessment advises of 102 students over 17 years of age, and 65 staff, when operating with 750 students.

Therefore 102 students require 10.2 onsite parking spaces, and 65 staff requires 32.5 spaces. A total of 43 on site car parking spaces are required to cater for 750 students and 65 staff.

The school provides 137 onsite parking spaces in three, connected car parks. The demand for parking can be adequately catered for within the site. Car parking areas are designed according to AS and includes adequate lighting and landscaping.

Bicycle parking facilities are not provided, however will be required given 20% of the school population are anticipated to walk/ride to school once the pedestrian footpath is finished (this is further discussed under 'Likely Impacts'). A condition has been attached to this effect.

The loading and unloading of commercial vehicles can be catered for upon the site.

DEVELOPMENT CONTRIBUTIONS

Section 64 Headworks Charges

Water and sewer headworks charges are to be paid for the additional water and sewer demand at a rate of 7.5ETs for water and 12.5ETs for sewer, to cater for the additional 250 students. These charges are to be paid in equal instalments on an annual basis, with one payment prior to the issue of the Construction Certificate.

PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)

Demolition of a Building (clause 61)

The proposal involves the demolition of amenities and a shed. A condition is attached requiring the demolition to be carried out in accordance with *Australian Standard AS2601 - 2001: The Demolition of Structures* and the requirements of Safe Work NSW.

Fire Safety Considerations (clause 62)

Council's Building Surveyor advises this will be assessed at Construction Certificate stage, however the building appears to be compliant.

Buildings to be Upgraded (clause 64)

Council's Building Surveyor reports it is unlikely that adjoining buildings will need to be upgraded for this proposal.

THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)

Context and Setting

The site is located in a rural-residential fringe area, approximately 3.7km north west of the CBD of the City of Orange. The site is surrounded by larger dwellings on approximately 2ha allotments. The site itself features a concentration of school buildings, internal road and pedestrian networks, as well as car parking spaces and bus bays. The site has access to Murphy Lane and Hewitt Close, both local roads of sealed construction.

The establishment of an educational facility has altered the character and amenity of the locality by introducing an urban element into the rural-residential nature of the locality, particularly during school hours, which has affected the enjoyment of the neighbouring land to some extent. It has not, however, restricted neighbouring properties from being used for rural-residential use.

The potential for land use conflicts was poorly considered with the location of 3 storey classrooms 5m from a residential property boundary. However, the development has since been revised at the request of Council, to reduce impacts to the eastern neighbour. With the imposition of conditions regarding construction, noise, light spill and operation, no significant adverse impacts on the neighbourhood amenity of the area are expected.

Visual impacts

The proposed development is 2-3 storeys in height and is set back 5m from the eastern boundary. There is an obvious difference of scale and massing of the proposed development compared to the surrounding, low-density development. The design of the proposed development appears to acknowledge this constraint and incorporates a generous setback from Mitchell Highway, however failed to extend this consideration to the eastern

neighbour. With the provision of amended plans to step and reduce the height from the east, the revised design now provides an acceptable degree of visual relief.

The exterior finish of the building will be a fairly restrained level of modern architecture, with skillion roof forms and a mix of traditional and new finishes. Standard glazing and galvanised steel railing will offset the expanse of steel cladding on walls and roof forms. It is considered the building will be compatible to other structures on the site, and within the locality.

Given the substantial setback from Mitchell Highway, the stepping of the eastern elevation and with screening on the eastern boundary, the visual impacts are not considered unreasonable given the differing land use on the site compared to its surroundings.

Noise

A Noise Assessment by Spoke Acoustics (dated September 2023) considered the following issues with regard to proximity to residential receivers:

- increase in student numbers, additional traffic noise and outdoor play
- location of the Trinity Building and associated PA system, mechanical plant etc.

The assessment made two recommendations to manage potential noise impacts, comprising a review of final plant selection and consideration of building materials for traffic noise reduction.

Council's Environmental Health Officer provides the final assessment:

Predicted increase in noise level from children at play is 2dBA. This is considered barely perceptible. Levels would be very similar to, or less than, ambient noise levels measured without children at play. The report also notes that noise from children playing is generally not deemed to be offensive or unreasonable in nature, and has cited Land and Environment Court decisions supporting that claim.

Noise from onsite traffic during pick-up and drop-off times is predicted to comply with the project intrusiveness criteria, established on recent measurement of rating background noise levels at those times.

Mechanical plant selection has not been finalised, and the report recommended further assessment of mechanical plant during detailed design. A condition has been applied requiring detailed plans and specifications of all mechanical plant shall be provided with confirmation from a suitably qualified person to ensure noise emissions from mechanical plant will comply with the project noise trigger levels in Table 6, Section 4 of the Trinity Building DA Noise Assessment report prepared by Spoke Acoustics, dated September 2023.

Privacy

The proposed development has the potential to impact upon the privacy of the eastern neighbour. This is discussed under the heading 'Any submissions', however in summary the proposed development, with the imposition of conditions, was found to have no substantial detrimental impact.

Construction

The construction of the proposal will generate adverse conditions for the surrounding environment without the imposition of conditions relating to noise, hours of operation, soil and erosion control, and traffic management. Suitable conditions of consent have been

imposed upon the development to ensure the construction phase is carried out with the least possible impact upon the surrounding environment.

Current development consent limits all access to the school to Murphy Lane. Council's previous Engineering Development Manager advised that the internal road system of the OAGS site was not designed or constructed to cater for heavy construction vehicles, or their quantity loads required during construction. Hewitt Close has been designed and constructed to cater for all expected traffic loading, which includes all classes of vehicles. As Hewitt Close is a public road, Council will allow construction vehicles over 8.8m to use this road during the construction phase. At the completion of the construction phase all operational vehicles shall enter and exit the site from Murphy Lane. It is recommended that the proponent contact residents in Hewitt Close prior to the construction period outlining the period for construction. Conditions to this effect have been imposed.

Utilities

Student numbers will be capped at 750 students due to the relevant water and sewer contribution charges being levied. As school enrolments increase, so will the demand for sanitary facilities. Council's Building Surveyor is satisfied that a suitable number of facilities will be provided in accordance with the provisions of the Building Code of Australia.

Access, Traffic and Transport

Access to the proposed development is principally from Murphy Lane, a local sealed road which connects to Mitchell Highway. A secondary access to the school is available from Hewitt Close.

The school's internal roads have been designed and constructed to accommodate all expected vehicles including buses, and service and delivery vehicles. The school currently operates a kiss and drop system with suitable bays and an adequate length onsite for vehicle stacking. A satisfactory number of car parking and bus bays have been provided on the site to cater for the increase in student numbers.

Traffic demand

The increase in student numbers resulted in substantial discussions between the applicant, TfNSW and OCC due to the current failure of the Murphy Road/Mitchell Highway intersection at peak school times (drop off/pick up).

The Traffic Impact Assessment (TIA) (rev E) claimed a significant decrease in private car travel to the site, from 63% to 30%, while claiming a significant increase in pedestrian/cycling access (albeit restricted under current OAGS Student Travel Policy). The TIA (rev E) suggested traffic impacts would be minimised by the shared footpath/cycleway and the provision of an additional 2-3 buses.

TfNSW and OCC did not accept these findings, with the main area of contention being car usage falling from 63% to 30%. An amended TIA (rev F) was submitted, with TfNSW requiring an intersection upgrade as a result.

OAGS then presented the outcomes of a survey on future transport options offered to its school community (516 responses equating to 72% of the school population). It is reported that no less than 40% of the school population intends to use additional bus services that would be made available by the school. An amended TIA and OAGS Travel Policy was submitted to reflect the above. TfNSW accepted the OAGS Travel Policy, and recommended a condition restricting private vehicle usage to 420 in/420 out per day, with 6 monthly reporting to Council.

OAGS initially suggested the timing of the implementation of the 420 in/420 out and private bus service/s should commence from the date of the Occupation Certificate of the Trinity building, to allow for the construction of the shared footpath/cycleway and the school to procure additional bus services. However, it is the student numbers that will increase the traffic demand to the site, not the building, and therefore all safety measures regarding traffic will be tied to the opening of the footpath (anticipated to be completed by June 30, 2024) and enrolment numbers beyond 500 students. The proponent has agreed to this approach. Attached is a condition of consent requiring certain amendments to the OAGS Travel Policy to reflect this requirement.

Pedestrian access

Pedestrian access to the site has always been actively encouraged by Council, with numerous consents placing the onus on OAGS to design and provide pedestrian linkages to the site. Whilst numerous options were investigated, at the time none were deemed acceptable to TfNSW, and the requirement deferred. The lack of pedestrian access to the school has remained an issue.

However, recent grant funding and associated works have allowed Council to design and construct a shared footpath/cycleway from the urban catchment south of the NDR to the entrance of OAGS (refer to Figure 8 below). This is expected to be operational by July 2024. Once the footpath to the site becomes operational, the Plan of Management restricting all pedestrian and bicycle access will become obsolete, which is reflected in the OAGS Student Travel Policy.

In order to ensure students and staff are aware of the risks of crossing the NDR/traversing the Mitchell Highway, it is recommended that the OAGS Student Travel Policy be provided to all students and staff on an annual basis; and shall include provision for the school to deliver a responsible walking and riding program as part of the annual curriculum. This has been required under past consents and is to be included in the most recent OAGS Student Travel Policy. A condition has been imposed to this effect.

It is noted the Travel Policy does not exclude bicycle means prior to the opening of the Council footpath. A condition requires amendment of the policy to exclude bicycles until such time that the footpath is operational.

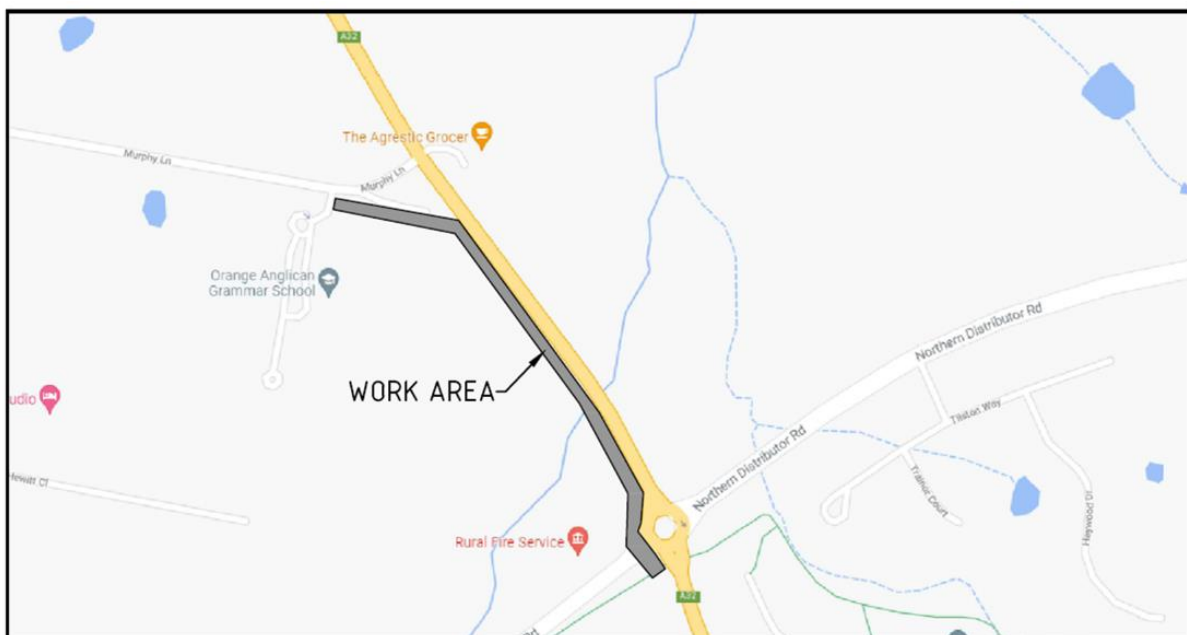


Figure 8 - shared footpath/cycleway

Pedestrian access and linkages within the school are functional and sufficient. A new footpath will be required to connect the Council shared footpath/cycleway to the internal linkages, a condition has been imposed to this effect.

THE SUITABILITY OF THE SITE s4.15(1)(c)

The location of the educational establishment is compromised to a degree, with two major arterial roads intersecting the general urban catchment to which it serves. The site is situated within a large lot residential area where quiet enjoyment of land is highly valued by existing residents. The development of an educational establishment in this locality has undoubtedly altered the amenity of the existing area over time.

Mitchell Highway and the Northern Distributor Road are located in close proximity (and in parts adjacent to) the north and east of the properties, and combined with the lay of the land, pedestrian access has not been readily available to the school grounds. This has created an overdependence of private vehicle usage, which in turn has created a safety issue at the intersection of Murphy Lane and Mitchell Highway during peak school times.

Conditions of consent currently restrict students or employees walking to the school site under the OAGS Student Travel Policy. This policy requires all students and employees to travel to and from the school via passenger vehicle or school bus via the Murphy Lane entrance only (with a small exemption for local students and staff to access Hewitt Close). DA 341/2009(2) requires OAGS to undertake design and construction work for pedestrian access to the site, however it is understood that Orange City Council will provide this, with the shared footpath/cycleway due to be operational by June 2024.

Despite the issues raised in relation to traffic safety, the site allows for an adequate area of land to ensure that all car parking and bus manoeuvring is adequately contained within the school grounds. The development will offer a purpose-built environment for students with the ability to expand enrolment numbers from preschool through to Year 12 for 750 students. The site was not found to be contaminated, and suitable replanting of trees will be undertaken to screen the built form and maintain the vista of the locality. Utility services are available and can be augmented to cater for the demand.

With the imposition of appropriate conditions of construction and operation, the site is considered suitable for the proposed development.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)

The proposed development is defined as "advertised development" under the provisions of the Community Participation Plan. The application was advertised for the prescribed period of 14 days and at the end of that period no submissions were received.

One submission was received outside of the exhibition period. Whilst there is no legal obligation for these issues to be considered, the concerns raised by the neighbour to the east have been discussed below:

Neighbourhood context, height, bulk, scale and setback

The submission acknowledges the low density rural residential character of the area, with built-form predominantly consisting of single storey detached dwellings on larger allotments. The submission states *"consideration of the design of the new building in height, bulk and scale for the chosen locality has given no regard to the view for the adjoining*

landowner. The application does not provide for any visual relief or protection for the buildings' proximity to the eastern boundary. The proposed development and design is not in keeping with the existing neighbourhood or school character."

Furthermore, the submission expresses the cumulative impact on the amenity of the neighbour with respect to the height, bulk and scale of the building adversely impacting the neighbouring site. Landscaping has been requested along the dividing boundary *"to provide visual protection and amenity to the landowner to the east."*

The design has since been amended to reduce the height, bulk and scale of the eastern elevation by deleting the third storey, which steps the building away from the eastern boundary. Landscaping of the boundary will be required, with the provision of Pin Oak *Quercus palustris* 'Pringreen' Green Pillar trees at 6m centres, for the length of the eastern boundary adjacent to the development. This planting shall commence at the southern boundary of Lot 1 DP 1286548 and shall extend south for 30m.

The concern for *"...given no regard to the view for the adjoining landowner"* is taken to mean the visual amenity, not a view corridor to Mt Canobolas as views to Mt Canobolas are not available from the dwelling. Appropriate visual amenity will be achieved by the redesigned eastern elevation combined with the screen planting.

Privacy

It is submitted that the neighbouring landowner will have *"direct views into their yard from the windows on the eastern elevation of the new building as well as the balconies on the northern elevation of the building"*.

The distance from the proposed building to the neighbouring areas of gardens and private open space is in the order of 95m (refer Figure 8 below). Whilst there is no direct overlooking into these main areas of POS, the height and proximity of the building to the dividing boundary has the ability to impact the enjoyment of neighbouring land. As such, the development has been redesigned to partially screen the eastern windows with fixed louvres, which will permit looking across, rather than looking down, into areas of POS.

In addition to the louvres, galvanised steel railing will be provided to balcony ends at 2.1m high to reduce overlooking from congregations of students where the building is closest to the boundary.

These measures, when combined with the separation distance, are considered suitable to address privacy concerns.



Figure 9 - separation to neighbour

Noise

Operational noise within the school environment is a concern to the neighbour, given the proximity of the classrooms to the dividing boundary. It was requested that an acoustic engineer demonstrate that *"the amenity of the adjoining residential land be protected"* against both operational and construction noise. It was requested by the objector that Council impose the noise restrictions contained within *SEPP (Transport and Infrastructure) 2021 Schedule 6 - Schools* relating to complying development, which states that a new building must be designed so as not to emit noise exceeding an LAeq of 5dB(A) above background noise when measured at any property boundary.

An acoustic report was prepared by Spoke Acoustics (September 2023) which modelled the potential impact to this neighbour. The report found that based on predictions in the report, the operation of the development was expected to comply with intrusiveness criteria. Furthermore, the report recommended further assessment of mechanical plant during detailed design. This has been conditioned accordingly.

Construction noise will be managed via conditions of consent for hours of construction. Whilst the construction of the building will temporarily alter the amenity of the area, this is a short term impact and is therefore acceptable.

Light spill

The submission outlines that light spill *"may impact the adjoining landowner based on the buildings proximity to the boundary and proposed height"*.

A condition will be imposed requiring any lighting of the building to comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting.

PUBLIC INTEREST s4.15(1)(e)

The proposal will not be inconsistent with any policy statement, planning study or guideline that has not been considered in this assessment. There are no aspects of the proposal that will be contrary to the welfare or well-being of the general public.

SUMMARY

The proposed development is permissible with the consent of the Western Region Planning Panel. The proposed development complies with the relevant SEPPs, Orange LEP 2011 (as amended) and DCP 2004. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft 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 following technical officers have been included in this report and Notice of Approval:

- Senior Environmental Health Officer
- Building Surveyor
- Assistant Development Engineer
- City Presentation Manager