

## Annexure E

## **NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

issued under the *Environmental Planning and Assessment Act 1979*  
Section 4.18

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**Development Application**

Applicant Name: Maas Group Properties 103 Prince Pty Limited  
Applicant Address: PO Box 4921  
DUBBO NSW 2830  
Owner's Name: Maas Group Properties 103 Prince Pty Limited  
Land to Be Developed: Lot 501 DP 1249083- 103 Prince Street, Orange  
Proposed Development: Multi Dwelling Housing (16 dwellings) and Subdivision (three lot Torrens title) (Stage 1); and Residential Flat Building (60 apartments), Recreation Area (public park) and Road (Stage 2)

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**Building Code of Australia  
building classification:**

To be determined by the Certifier

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**Determination made under  
Section 4.16**

Made On: TBC  
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

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**Consent to Operate From:** TBC  
**Consent to Lapse On:** TBC

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**Terms of Approval**

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
  - (2) To maintain neighbourhood amenity and character.
  - (3) To ensure compliance with relevant statutory requirements.
  - (4) To provide adequate public health and safety measures.
  - (5) Because the development will require the provision of, or increase the demand for, public amenities and services.
  - (6) To ensure the utility services are available to the site and adequate for the development.
  - (7) To prevent the proposed development having a detrimental effect on adjoining land uses.
  - (8) To minimise the impact of development on the environment.
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**Conditions**

- (1) The development must be carried out in accordance with:
  - (a) **Plans numbered and described as follows:**

**Conditions (cont)**

- Architectural plans prepared by EJE Architecture – Project No. 13956:

Dwg. No.	Title	Rev	Date
A-000	Coversheet	1	17/04/2023
A-010	Existing Site Plan	0	24/01/2023
A-011	Site Analysis	0	24/01/2023
A-012	Site Plan	1	10/03/2023
A-020	Basement Plan	1	10/03/2023
A-021	Ground Floor Plan	1	10/03/2023
A-022	Level 1 Plan	1	10/03/2023
A-023	Level 2 Plan	1	10/03/2023
A-024	Level 3 Plan	1	10/03/2023
A-025	Level 4 Plan	1	10/03/2023
A-026	Level 5 Plan	1	10/03/2023
A-027	Level 6 Plan (Roof Plan)	0	24/01/2023
A-030	Elevation – Sheet 1	1	10/03/2023
A-031	Elevation – Sheet 2	1	10/03/2023
A-035	Prince St. Elevation	1	10/03/2023
A-036	Dalton Street Elevation	0	24/01/2023
A-040	Sections – Sheet 1	0	24/01/2023
A-041	Sections – Sheet 2	0	24/01/2023
A-051	Site Plan 3d – Sheet 1	0	24/01/2023
A-052	Site Plan 3d – Sheet 2	1	10/03/2023
A-053	Building Envelope Diagrams	0	24/01/2023
A-060	Shadow Diagrams	0	24/01/2023
A-061	Shadow Diagrams	0	24/01/2023
A-070	Staging Plan	1	10/03/2023
A-080	Ground Floor Area Plan	1	10/03/2023
A-081	Level 1 Area Plan	1	10/03/2023
A-082	Level 2 Area Plan	1	10/03/2023
A-083	Level 3 Area Plan	1	10/03/2023
A-084	Level 4 Area Plan	1	10/03/2023
A-085	Level 5 Area Plan	1	10/03/2023
A-090	Solar Access & Cross Flow – Ground Floor	1	10/03/2023
A-091	Solar Access & Cross Flow – Level 1	1	10/03/2023
A-092	Solar Access & Cross Flow – Level 2	1	10/03/2023
A-093	Solar Access & Cross Flow – Level 3	1	10/03/2023
A-094	Solar Access & Cross Flow – Level 4&5	1	10/03/2023
A-100	Lift Option Plans	0	24/01/2023
A-102	Silver Level Unit	0	24/01/2023
A-110	Perspectives – Sheet 1	1	10/03/2023
A-111	Perspectives – Sheet 2	1	10/03/2023
A-112	Perspectives – Sheet 3	0	24/01/2023
A-113	Perspectives – Sheet 4	0	24/01/2023
A-114	Perspectives – Sheet 5	0	24/01/2023
A-115	Perspectives – Sheet 6	0	24/01/2023
A-116	Perspectives – Sheet 7	0	24/01/2023
A-117	Photomontage	0	24/01/2023
A-120	Material Images	1	10/03/2023

**Conditions (cont)**

- Landscape Masterplan Documentation Prepared by Terras Landscape Architects Job No. 13956.5:

Dwg. No.	Title	Versions
L100	Masterplan – Landscape Approach	K
L101	Masterplan - Landscape Design	M
L201	Street Tree Augmentation	L
L301	Townhouses - Landscape Design	L
L302	Townhouses - Detail Plans	K
L303	Apartments - Landscape Design	M
L304	Apartments - Detail Plans	K
L400	Public Domain - Approach	F
L401	Public Domain - Landscape Design	M
L402	Public Domain - Pergolas	K
L403	Public Domain - Labyrinth	K
L404	Public Domain - Playground	K
L405	Public Domain – Playground Images	K
L406	Public Domain – Pocket Park	L
L407	Public Domain – Tree Strategy	K

- Draft Subdivision Plan prepared by Craig Jaques and Associates:

Dwg. No.	Title	Date
3925/23	Plan of Proposed Subdivision of Lot 501 DP1249083 – Prince, Sale and Dalton Streets, Orange	08/03/2023

- Shared Zone Driveway plans prepared by MAAS Group Properties – project no. 22037:

Dwg. No.	Title	Rev	Date
DR-01	Shared Zone Driveway – Part A	01	08/03/2023
DR-02	Shared Zone Driveway – Part B	01	08/03/2023
DR-03	Shared Zone Driveway – Part B	01	08/03/2023

- Exterior Lighting plan prepared by Electrical Projects Australia Project no. 22059:

Dwg. No.	Title	Date
E21	Site Plan – Electrical Layout	08/03/2023

- (b) Statements of environmental effects or other similar associated documents that form part of the approval.
- (c) BASIX Certificate Number: 1288407M\_02.
- (d) Heritage interpretation Strategy Prepared by carste Studio, dated 2 September 2022.

**as amended in accordance with any conditions of this consent.**

**Conditions (cont)**

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

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

- (4) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of the Act, evidence that such a contract of insurance is in force is to be provided to the Principal Certifying Authority before any building work authorised to be carried out by the consent commences.
- (5) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and the licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- (6) Where any excavation work on the site extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

<b>General Conditions relating to the whole of the development</b>
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- (7) This consent only approves the removal of trees identified as Trees 1, 2, 3, 6, 12, 14 and 15 as shown on Landscape Plan L201 Rev L prepared by Terras. No other trees within the site shall be removed.
- (8) Prior to any works commencing on the site, Tree Protection Zones (TPZs) in accordance with AS4970-2009 Protection of Trees on Development Sites shall be established around all existing trees within the site and adjoining public footpaths that are required to be retained. The TPZs shall be installed under the direction of the project arborist and in consultation with Council's Manager City Presentation. The TPZs must remain in place for the duration of the development. For the avoidance of doubt, TPZs required within Lot 603 including any street tree within the frontage of Lot 603 may be removed at the time a final occupation certificate is issued for stage 1.

**Conditions (cont)**

- (9) Prior to any works commencing on site, the Construction Environmental Management Plan (CEMP) prepared by MAAS Group Properties Dated 26 May 2022 shall be amended to include measures which ensure any potential impacts upon future residents of the multi dwelling housing development completed under stage 1 are suitably ameliorated during works completed under stage 2 of this consent. The amended CEMP shall be submitted to Council's Manager Development Assessments for approval prior to works commencing. The approved CEMP shall be implemented for the duration of the development.
- (10) All existing nesting boxes within the site shall remain undisturbed and *in situ*, with the exception of any nesting box located within a tree approved to be removed, in such cases, the nesting box shall be relocated to another mature tree within the site at a commensurate height and orientation.

**STAGE 1 - MULTI DWELLING HOUSING AND THREE LOT SUBDIVISION****PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (11) Prior to the issue of a construction certificate, evidence shall be provided to Council's Manager Development Assessments that demonstrates the beneficiary of the consent has entered into a Planning Agreement in accordance with the letter of offer from MAAS Group Properties dated 4 April 2023. Evidence shall also be provided to Council's Manager Development Assessments that demonstrates that the planning agreement has been registered on the title of the land the subject of this development consent.
- (12) The payment of **\$186,539.55** is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (remainder of the LGA) towards the provision of the following public facilities:

Component of plan	Rate	Amount
Open Space and Recreation	\$4,626.04 x 15 (3-bedroom dwellings)	\$69,390.60
Community and Cultural	\$1,341.53 x 15 (3-bedroom dwellings)	\$20,122.95
Roads and Traffic Management	\$6,106.21 x 15 (3-bedroom dwellings)	\$91,593.15
Local Area Facilities	--	--
Local Area Facilities	\$362.19 x 15 (3-bedroom dwellings)	\$5,432.85
<b>TOTAL</b>		<b>\$186,539.55</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017. This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (13) Prior to the issue of a construction certificate, the plans submitted with the construction certificate application shall include the following amendments:
- All glazing within a window of a bathroom, ensuite or water closet shall be frosted or obscured glass.
  - Details of the fencing along the common boundary between proposed lots 602 and 603. The fencing shall be not more than 1.5m in height, be of picket or palisade style with a minimum 20% aperture and incorporate vegetative screening / hedging on the northern side of the fence.
  - Details of the dividing fencing between dwellings (front and rear) is to be shown on the plans. The dividing fences between dwellings shall be solid and no higher than 1.5m and softened with landscaping.
- (14) Prior to the issue of a construction certificate, a detailed landscape plan for the multi dwelling housing (relating to the proposed lot 603) shall be prepared by a landscape architect and be submitted to Council's Manager Development Assessments for approval. The amended landscape plan shall incorporate the following requirements:
- The detailed landscape plan shall be generally in accordance with the Landscape Masterplan (in terms of indicative number of plants, species, spacing of plants, etc.) plans numbered; L101 Rev M, L201 Rev L; 301 Rev L and L302 Rev K - job No. 13956.5 prepared by Terras Landscape Architects; except as further amended by the following:

**Conditions (cont)**

- The plan shall include a detailed schedule of all selected trees, shrubs and ground covers including botanical name, size at maturity, pot size and number of each species. The minimum pot size of trees shall be not less than 75L. Selected plants shall include a minimum of 20% endemic species as well as plants with low water usage.
- The front terrace arrangement and front stairs shall be amended to accord with architectural plans.
- A minimum of one small tree shall be planted in the front and rear yards of each dwelling. Small trees proposed to be used shall be defined by Table 4 in the Apartment Design Guidelines, NSW.
- The landscaping along the eastern side of the north/south shared accessway shall comprises a mix of suitable trees, shrubs and ground covers. Trees proposed to be planted in this located shall have an appropriate growth habit that is suitable for the growing conditions.
- Additionally, the plans shall nominate a tree cell structures for all street trees within Dalton Street and Sale Street (Lot 603 frontage).
- All gates that open on to a public place are to swing inwards. No gates shall swing out past the boundary line of a private property.

The detailed landscape plan shall be accompanied by a landscape maintenance strategy for the owner/occupier to administer over a 12-month establishment period following the issue of the Occupation Certificate. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

- (15) The existing water mains on the Sale Street and Prince Street frontages, and the existing sewer main in Prince Street shall be augmented / upgraded as part of stage 1 construction works to Orange City Councils requirements. Engineering plans, showing details of all proposed work including removal of redundant services and provision for new connections are to be submitted to, and approved by, Orange City Council prior to the issuing of a Construction Certificate.
- (16) A Soil and Water Management Plan (SWMP) is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.
- (17) The development's stormwater design is to include stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments. The existing site is to be considered 100% pervious for the purposes of stormwater detention calculations.

The design of the detention storage is to be undertaken using the DRAINS rainfall-runoff hydrologic model or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates. The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

- catchment plan showing sub-catchments under existing and developed conditions;
- schematic diagram of the catchment model showing sub areas and linkages;
- tabulation detailing the elevation, storage volume and discharge relationships; and
- tabulation for the range of frequencies analysed, the inflows, outflows and peak storage levels for both existing and developed conditions;

together with copies of the data files for the model and engineering design plans of the required drainage system are to be submitted to Orange City Council upon application for a Construction Certificate.

**Conditions (cont)**

All stormwater drainage design shall be based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s).

- (18) All stormwater from the development including the carpark and shared driveway, shall be collected and piped to an on-site stormwater treatment system. The design and construction of the stormwater treatment system shall ensure that the quality of stormwater leaving the developed site achieves the following stormwater quality targets:
- 90% reduction in the post development average annual gross pollutant (>5 millimetres) load (GP); and
  - 85% reduction in the post development mean annual load of Total Suspended Solids (TSS); and
  - 60% reduction in the post development mean annual load of Total Phosphorus (TP); and
  - 45% reduction in the post development mean annual load of Total Nitrogen loads (TN).

Engineering plans for this stormwater treatment system shall be submitted to and approved by Orange City Council prior to the issuing of a Construction Certificate. The applicant shall undertake comprehensive water quality modelling on for the site, using an accredited assessment tool (recommended using Music™ or other approved assessment tool) and shall include copies of the electronic data files. Modelling shall be undertaken for both pre and post development scenarios.

- (19) A dust management plan shall be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) upon application for a Construction Certificate. The approved dust management plan is to be implemented prior to excavation work commencing.
- (20) Prior to the issue of a Construction Certificate engineering plans of the carpark and shared access driveway shall be submitted to the Principal Certifying Authority for approval. The plans shall provide details of levels, cross falls of all pavements, proposed sealing materials, proposed drainage works, line marking, signage and are to be in accordance with Orange City Council Development and Subdivision Code and AS 2890.1 (Off-street car parking). The plans shall also detail sight lines for vehicles exiting the shared driveway to Dalton Street in accordance with AS/NZS 2890.1:2004 section 3.2.4(b) and ensure that there are no obstructions located within the required sight triangles. Shared zone signage shall be installed as per MAAS shared zone driveway plan (project no. 22037 dwg no. DR-01 to DR-03 dated 08/03/2023). Note: speed humps are not to be installed in the shared driveway.
- (21) Proposed lots 601, 602 and 603 are to be provided with interlot stormwater drainage. A grated concrete stormwater pit is to be constructed within each lot. The interlot system shall be piped to Councils existing stormwater network in Prince Street. Engineering plans for this drainage system are to be approved by Orange City Council prior to the issuing of a Construction Certificate.
- (22) A sewer main is to be constructed from Council's existing sewer network to serve proposed lots 601, 602 and 603. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.
- (23) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 16 ETs for water supply headworks and 16 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

- (24) Backflow Prevention Devices are to be installed to AS3500 and in accordance with Orange City Council Backflow Protection Guidelines. Details of the Backflow Prevention Devices are to be submitted to Orange City Council prior to the issuing of a Construction Certificate.
- (25) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to **a Construction Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.

**Conditions (cont)**

- (26) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for alterations to water and sewer. No plumbing and drainage is to commence until approval is granted.
- (27) The applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.

<b>PRIOR TO WORKS COMMENCING</b>
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- (28) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.
- (29) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (30) Soil erosion control measures shall be implemented on the site.
- (31) A dilapidation report prepared by a suitably qualified engineer is to be submitted to Council or the accredited Certifier addressing the current condition of the buildings that are adjoining the development site.

<b>DURING CONSTRUCTION/SITEWORKS</b>
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- (32) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (33) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing.
- (34) All external lighting shall be installed in accordance with AS4282:2019.
- (35) Excavated material shall be used on site as far as practicable. All surplus excavated material shall be disposed of appropriately.
- (36) Any fill material imported to site shall be virgin excavated natural material only.
- (37) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (38) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

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

- (39) All driveway and parking areas are to be sealed with hot mix or concrete and are to be designed for all expected loading conditions and be in accordance with the Orange City Council Development and Subdivision Code. The shared driveway shall extend to the common boundary with proposed Lot 601. Speed humps shall not be installed within the shared driveway.

**Conditions (cont)**

- (40) A 6m wide heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in Dalton Street in the position shown on the approved plans. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (41) The existing kerb and gutter layback and footpath crossing in Dalton Street is to be replaced with standard concrete kerb and gutter and the adjacent footpath area re-graded to the shape and level requirements of footpaths in the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (42) The existing footpath in Dalton Street shall be replaced with a 1.2m wide concrete footpath for the full frontage of the development and the existing footpath in Sale Street shall be replaced with a 2.0m wide concrete footpath for the full frontage of the development. The footpaths shall be constructed to the standards stated in the Orange City Council Development and Subdivision Code.
- (43) All services are to be contained within the allotment that they serve.
- (44) All construction/demolition work on the site is to be carried out between the hours of 7.00am and 6.00pm Monday to Friday inclusive, and 8.00am to 1.00pm on Saturdays. No construction/demolition work is permitted to be carried out on Sundays or Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.
- (45) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (46) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (47) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (48) Construction noise and vibration shall be managed in accordance with the Construction Environmental Management Plan provided by MAAS Group and dated 26 May 2022, with regular review throughout works to ensure controls remain effective as site conditions change.
- (49) All outdoor lighting must be installed in accordance with the Australian Standard AS4282-2019: *Control of the Obtrusive effects of outdoor lighting*.

<b>PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE</b>
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- (50) A total of 32 off-street car parking spaces shall be provided upon the site (Lot 603) in accordance with the approved plans, the provisions of Orange Development Control Plan 2004, and be constructed in accordance with the requirements of Council's Development and Subdivision Code prior to the issue of an Occupation Certificate.
- (51) Landscaping shall be installed in accordance with the approved plans (including the street trees within Dalton Street and within the Sale Street frontage of Lot 603) prior to the issue of the Occupation Certificate, and shall be permanently maintained to the satisfaction of Council.
- (52) Street numbering adjacent to street entrances, and numbering of letter boxes, shall be carried out prior to the issue of the Occupation Certificate
- (53) The approved external lighting plan, as it relates to proposed Lot 603, shall be fully implemented prior to the issue of an occupation certificate.
- (54) All fencing (front, side and dividing – between dwellings) shall be installed as per the approved plans prior to the issue of an Occupation Certificate.

**Conditions (cont)**

- (55) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater treatment system and detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (56) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (57) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (58) Certificates for testable Backflow Prevention Devices are to be submitted to Orange City Council by a plumber with backflow qualifications prior to the issue of an Occupation Certificate.
- (59) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (60) The owner of the building/s must cause the Council to be given a Final Fire Safety Certificate on completion of the building in relation to essential fire or other safety measures included in the schedule attached to this approval.
- (61) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a Final Notice of Inspection issued, prior to the issue of a final Occupation Certificate.
- (62) The cut and fill is to be retained and/or adequately battered and stabilised (within the allotment) prior to the issue of an Occupation Certificate.

**PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

- (63) The payment of **\$12,435.97** is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (remainder of the LGA) towards the provision of the following public facilities:

Component of plan	Rate	Amount
Open Space and Recreation	\$4,459.51 x 1 additional lot	\$4,626.04
Community and Cultural	\$1,293.24 x 1 additional lot	\$1,341.53
Roads and Traffic Management	\$5,886.40 x 1 additional lot	\$6,106.21
Local Area Facilities	--	--
Local Area Facilities	\$349.16 x 1 additional lot	\$362.19
<b>TOTAL</b>		<b>\$12,435.97</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017. This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (64) Prior to the issue of a subdivision certificate, the plan of subdivision shall be amended to include a Public Positive Covenant pursuant to 88E of the Conveyancing Act 1919 to allow public access. The Public Positive Covenant shall relate to the area of the site described as a "Pocket Park" on the approved landscape plan prepared by Terras Landscape Architects sheet L401 rev. M.
- (65) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (66) Prior to the issue of a subdivision certificate evidence shall be provided of the payment of water and sewer headworks charges and s711 contributions for the multi dwelling housing development (15 dwellings).

**Conditions (cont)**

- (67) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.
- (68) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (69) An easement to drain sewage and to provide Council access for maintenance of sewerage works a minimum of 2.0 metres wide is to be created over all sewer main(s). The Principal Certifying Authority is to certify that the easement is in accordance with the Orange City Council Development and Subdivision Code prior to the issuing of a Subdivision Certificate.
- (70) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (71) Where stormwater crosses land outside the lot it favours, an easement to drain water is to be created over the works. A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1919* is to be created on the title of the burdened Lot(s) requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (72) Prior to the issue of a Subdivision Certificate a right of way and Public Positive Covenant to provide public access as shown on the approved subdivision plan shall be established over the full length and width of the shared access handle serving proposed Lots 601 and 603.
- (73) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (74) Prior to the issuing of the Subdivision Certificate, a Surveyor's Certificate or written statement is to be provided to the Principal Certifying Authority, stating that the buildings within the boundaries of the proposed Lot 603 comply in respect to the distances of walls from boundaries.
- (75) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

<b>MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT</b>
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- (76) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.
- (77) The applicant shall obtain a Commissioning Report which assesses actual noise emissions from all operations of the development within three (3) months of the issue of an Occupation Certificate. Where the report recommends additional noise attenuation works to be carried out, these works are to be undertaken within 28 days from the date of the Commissioning Report. A copy of the Commissioning report is to be provided to Council and the Principal Certifying Authority.

**Conditions (cont)**

- (78) The applicant shall obtain a commissioning report which verifies compliance with AS2428-2019: *Control of the Obtrusive effects of outdoor lighting* within three (3) months of the issue of an Occupation Certificate. Where the report recommends lighting attenuation works to be carried out, these works shall be undertaken within 28 days from the date of the Commissioning Report. A copy of the Commissioning report is to be provided to Council and the Principal Certifying Authority.

**STAGE 2 - RESIDENTIAL FLAT BUILDING AND PUBLIC PARK**

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (79) The payment of **\$551,145.55** is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (remainder of the LGA) towards the provision of the following public facilities:

Component of plan	Rate	Amount
Open Space and Recreation	\$1,951.35 x 6 (1 bedroom) \$2,641.00 x 27 (2 bedroom) \$4,626.04 x 26 (3 bedroom)	\$11,708.10 \$71,307.00 \$120,277.04
<b>Sub total</b>		<b>\$203,292.14</b>
Community and Cultural	\$565.87 x 6 (1 bedroom) \$765.89 x 27 (2 bedroom) \$1,341.53 x 26 (3 bedroom)	\$3,395.22 \$20,679.03 \$34,879.78
<b>Sub total</b>		<b>\$58,954.03</b>
Roads and Traffic Management	\$2,873.47 x 6 (1 bedroom) \$3,591.89 x 27 (2 bedroom) \$6,106.21 x 26 (3 bedroom)	\$17,240.82 \$96,981.03 \$158,761.46
<b>Sub total</b>		<b>\$272,983.31</b>
Local Area Facilities	--	--
Local Area Facilities	\$152.80 x 6 (1 bedroom) \$206.79 x 27 (2 bedroom) \$362.19 x 26 (3 bedroom)	\$916.80 \$5,583.33 \$9,416.94
<b>Sub total</b>		<b>\$15,917.07</b>
<b>TOTAL</b>		<b>\$551,146.55</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017. This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (80) Prior to the issue of a construction certificate, the plans submitted with the construction certificate application shall include the following amendments:
- Provision shall be made for two x 240L recycle bins located within a cabinet with doors in close proximity to each waste chute on each level of the Residential Flat Building.
  - Window awnings, window hoods or other similar shading devices shall be provided above or around each west facing bedroom window of those bedrooms within Units G02, 102, 202 and 302. As far as practicable, the design of the shading device shall provide shading for mid-summer afternoon sun, whilst not reduce direct sunlight during mid-winter between 12noon and 3pm.
  - A minimum of 12 units within the residential flat building shall be silver level units as defined in the Livable Housing Design Guidelines prepared by Livable Housing Australia.
  - Provision made for a screened clothes drying area located on the northern side of the pedestrian path leading to the residential flat building from Sale Street. The clothes drying area must be appropriately screened from view from any public place using a combination of solid screening and landscaping, have minimum dimensions of 8m by 4m, be setback from Sale Street a minimum of 15m and be positioned in a manner that does not unreasonably reduce the amenity of future residents of unit G02.

**Conditions (cont)**

- All glazing within a window of a bathroom, ensuite or water closet shall be frosted or opaque glass.
- (81) Prior to the issue of a construction certificate for the residential flat building, a detailed landscape plan relating to the (future) public open space (proposed Lot 602) shall be prepared by a landscape architect and be submitted to Council's Manager Development Assessments for approval. The amended landscape plan shall incorporate the following requirements:
- The detailed landscape plan shall be generally in accordance with the Landscape Masterplan (in terms of indicative number of plants, species, size of trees at maturity, spacing of plants, etc.) plans numbered; L101 Rev M; L201 Rev L; L401 Rev M; L402 Rev K; L403 Rev K; L404 Rev K; L405 Rev K; L407 Rev K - job No. 13956.5 prepared by Terras Landscape Architects; except as further amended by the following:
    - The plan shall include a detailed schedule of all selected trees, shrubs and ground covers including botanical name, size at maturity, pot size and number of each species. The minimum pot size of trees shall be not less than 75L. Selected plants shall include a minimum of 20% endemic species as well as plants with low water usage.
    - A BBQ area shall be installed and shown on the plans adjacent to the central path mid-way between the children's play equipment and the central pergola. The BBQ area shall provide suitable electric BBQs (minimum of two) for public use.
    - The surface material around the kids play equipment shall be rubber wet pour material, not organic softfall mulch.
    - A perimeter pathway shall be installed around the outer edge of the park with secondary paths branching off the perimeter path that adjoin each private access gate in a common boundary with the public open space. All paths required under this condition shall be decomposed granite or similar.
  - All gates that open on to a public place are to swing away from the public place.

The detailed landscape plan shall be accompanied by a landscape maintenance strategy for the owner/occupier to administer over a 12-month establishment period following the issue of the Occupation Certificate. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

- (82) Prior to the issue of a construction certificate for the residential flat building, a detailed landscape plan for the residential flat building (relating to proposed Lot 601) shall be prepared by a landscape architect and be submitted to Council's Manager Development Assessments for approval. The amended landscape plan shall incorporate the following requirements:
- The detailed landscape plan shall be generally in accordance with the Landscape Masterplan (in terms of indicative number of plants, species, size of trees at maturity, spacing of plants, etc.) plans numbered; L101 Rev M, L201 Rev L; L303 Rev M; L304 Rev K - job No. 13956.5 prepared by Terras Landscape Architects; except as further amended by the following:
    - The plan shall include a detailed schedule of all selected trees, shrubs and ground covers including botanical name, size at maturity, pot size and number of each species. The minimum pot size of trees shall be not less than 75L. Selected plants shall include a minimum of 20% endemic species as well as plants with low water usage.
    - Small trees proposed to be used shall be defined by Table 4 in the Apartment Design Guidelines, NSW.
    - The landscaping along the eastern side of the north/south shared accessway shall comprises a mix of suitable trees, shrubs and ground covers. Trees proposed to be planted in this located shall have an appropriate growth habit that is suitable for the growing conditions.
    - The trees within Prince Street shall be positioned so that they do not conflict with pedestrian entries or vehicle entries to the site. Additionally, the plans shall nominate a tree cell structures for all street trees.

**Conditions (cont)**

- All gates that open on to a public place are to swing inwards. No gates shall swing out past the boundary line of a private property.

The detailed landscape plan shall be accompanied by a landscape maintenance strategy for the owner/occupier to administer over a 12-month establishment period following the issue of the Occupation Certificate. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

- (83) Prior to the issue of a construction certificate, details of the privacy screens shall be provided to and approved by Council Manager Development Assessment. The detail shall be provided at 1:20 scale showing the privacy screens required on levels 1 to 4 on the east and west elevations close to the re-entrant/internal corners on the northern side of the building, as well as the privacy screens at the eastern and western ends of the bank of three central balconies on the northern side of the building. The vertical slats/fins of the privacy screens shall be angled in a way that prevents direct overlooking.
- (84) Prior to the issue of a construction certificate, an amended external lighting plan shall be submitted to and approved by Council's Manager Development Assessments. The amended external lighting plan shall include suitable lighting within the area of open space located in the south-west corner of the site referred to on the landscape masterplan as "Pocket Park". The Lighting shall provide adequate safety and security for the users of the park.
- (85) Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lots 601, 602 and 603 have been registered with NSW Land and Property Information.
- (86) Engineering plans, showing details of all proposed work and adhering to any engineering conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (87) A Soil and Water Management Plan (SWMP) is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.
- (88) The development's stormwater design is to include stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments. The existing site is to be considered 100% pervious for the purposes of stormwater detention calculations.

The design of the detention storage is to be undertaken using the DRAINS rainfall-runoff hydrologic model or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates. The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

- catchment plan showing sub-catchments under existing and developed conditions;
- schematic diagram of the catchment model showing sub areas and linkages;
- tabulation detailing the elevation, storage volume and discharge relationships; and
- tabulation for the range of frequencies analysed, the inflows, outflows and peak storage levels for both existing and developed conditions;

together with copies of the data files for the model and engineering design plans of the required drainage system are to be submitted to Orange City Council upon application for a Construction Certificate.

All stormwater drainage design shall be based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s).

**Conditions (cont)**

- (89) All stormwater from the development shall be collected and piped to an on-site stormwater treatment system. The design and construction of the stormwater treatment system shall ensure that the quality of stormwater leaving the developed site achieves the following stormwater quality targets:
- 90% reduction in the post development average annual gross pollutant (>5 millimetres) load (GP); and
  - 85% reduction in the post development mean annual load of Total Suspended Solids (TSS); and
  - 60% reduction in the post development mean annual load of Total Phosphorus (TP); and
  - 45% reduction in the post development mean annual load of Total Nitrogen loads (TN).

Engineering plans for this stormwater treatment system shall be submitted to and approved by Orange City Council prior to the issuing of a Construction Certificate. The applicant shall undertake comprehensive water quality modelling on for the site, using an accredited assessment tool (recommended using Music™ or other approved assessment tool) and shall include copies of the electronic data files. Modelling shall be undertaken for both pre and post development scenarios

- (90) A dust management plan shall be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) upon application for a Construction Certificate. The approved dust management plan is to be implemented prior to excavation work commencing.
- (91) Prior to the issue of a Construction Certificate engineering plans of the carpark and shared access driveway shall be submitted to the Principal Certifying Authority for approval. The plans shall provide details of levels, cross falls of all pavements, proposed sealing materials, proposed drainage works, line marking, signage and are to be in accordance with Orange City Council Development and Subdivision Code and AS 2890.1 (Off-street car parking). The plans shall also detail sight lines for vehicles exiting the shared driveway to Prince Street in accordance with AS/NZS 2890.1:2004 section 3.2.4(b) and ensure that there are no obstructions located within the required sight triangles. Shared zone signage shall be installed as per MAAS shared zone driveway plan (project no. 22037 dwg no. DR-01 to DR-03 dated 08/03/2023). Note: speed humps are not to be installed in the shared driveway.
- (92) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on water supply headworks and sewerage headworks for 6 x one (1) bedroom dwellings, 27 x two (2) bedroom dwellings and 27 x three (3) bedroom dwellings. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

- (93) Backflow Prevention Devices are to be installed to AS3500 and in accordance with Orange City Council Backflow Protection Guidelines. Details of the Backflow Prevention Devices are to be submitted to Orange City Council prior to the issuing of a Construction Certificate.
- (94) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to **a Construction Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.
- (95) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. No plumbing and drainage is to commence until approval is granted.
- (96) The applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.

**PRIOR TO WORKS COMMENCING**

- (97) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.

**Conditions (cont)**

- (98) Prior to works commencing, a Plan of Management (PoM) – Waste Collection (General Waste and Recycling) shall be prepared and submitted to Council's Manager Developments Assessments for approval. The PoM – Waste Collection (General Waste and Recycling) shall, as a minimum, outline the methodology for the waste collection arrangements for the building, outline the measures to ensure all bin storage areas are maintained and kept in a clean and tidy manner and outline the measures to be implemented to ensure that bins are only stored in the external bin enclosure on collection days.
- (99) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (100) Soil erosion control measures shall be implemented on the site.
- (101) A dilapidation report prepared by a suitably qualified engineer is to be submitted to Council or the accredited Certifier addressing the current condition of the buildings that are adjoining the development site.

<b>DURING CONSTRUCTION/SITEWORKS</b>
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- (102) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (103) During construction, the applicant shall undertake the following tasks in relation to the Heritage Interpretation Plan (HIP) for the site:
  - The applicant shall create of a website or on-line platform for presenting the content identified in the HIP.
  - The applicant shall consult with the Aboriginal community on the final content of any heritage interpretation material and the location of the proposed totem poles.
  - The applicant shall consult with the Orange & District Historical Society as part of the final review of the content for the interpretation material.
  - The applicant shall install five interpretive sculptural objects from local artists nominated for the central park landscape. This shall be undertaken in consultation with Council's Chief Executive Officer or his delegate.
  - The applicant shall mount interpretive images related to the strategy within the two lobbies/common areas of the apartment building. Details of the images and any text shall be submitted to Council's Manager Development Assessments prior to installation.
  - The applicant shall prepare a detailed design for the main interpretive panel proposed for the "Respite Park" on the corner of Sale and Prince Streets to ensure that it is fully accessible for viewing. The post mounted sign as shown in the HIP will not meet this criterion. The details of the panel are to be submit to Council's Manager Development Assessments for approval. The location of the panel shall be such that it is clearly visible from the public realm.
- (104) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing.
- (105) Excavated material shall be used on site as far as practicable. All surplus excavated material shall be disposed of appropriately.
- (106) CCTV cameras shall be installed at the entrance to the basement car park and main entrances to the building. Arrangements shall be made for the footage captured by camera to be digitally stored on-site for a minimum 28 days and be made available to NSW Police upon their formal request.

**Conditions (cont)**

- (107) Any fill material imported to site shall be virgin excavated natural material only.
- (108) All external lighting shall be installed in accordance with AS4282:2019.
- (109) Adequate external lighting shall be installed in proximity to all communal pedestrian access points into the residential flat building.
- (110) Internal lighting within all common circulation areas within the RFB shall be appropriately zoned throughout the building and sensor operated to come on when activated by human movement; and then switch off by timer, having been on for a period of no longer than 5 minutes after being activated.
- (111) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (112) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

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

- (113) All driveway and parking areas are to be sealed with hot mix or concrete and are to be designed for all expected loading conditions and be in accordance with the Orange City Council Development and Subdivision Code. The shared driveway shall extend to the common boundary with proposed Lot 603. Speed humps shall not be installed within the shared driveway.
- (114) A 6m wide heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in Prince Street in the position shown on the approved plans. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (115) The existing footpath in Sale Street shall be replaced with a 1.5m wide concrete footpath for the full frontage of the development to proposed Lots 601 and 602. The existing footpath in Prince Street shall be replaced with a 1.5m wide concrete footpath for the full Prince Street frontage of proposed Lot 601. The footpaths shall be constructed to the standards stated in the Orange City Council Development and Subdivision Code.
- (116) All services are to be contained within the allotment that they serve.
- (117) All construction/demolition work on the site is to be carried out between the hours of 7.00am and 6.00pm Monday to Friday inclusive, and 8.00am to 1.00pm on Saturdays. No construction/demolition work is permitted to be carried out on Sundays or Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.
- (118) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority prior to the pouring of the slab or footings.
- (119) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (120) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.

**Conditions (cont)**

<b>PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE</b>
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- (121) A total of 93 off-street car parking spaces shall be provided upon the site (Lot 601) in accordance with the approved plans, the provisions of Orange Development Control Plan 2004, and be constructed in accordance with the requirements of Council's Development and Subdivision Code prior to the issue of an Occupation Certificate.
- (122) All privacy screens as shown on the approved plans shall be installed prior to the issue of an Occupation Certificate.
- (123) Landscaping shall be installed in accordance with the approved plans on Lot 601 and Lot 602 (including street trees within Prince Street and within the Sale Street frontage of Lot 601 and Lot 602) prior to the issue of an Occupation Certificate, and shall be permanently maintained to the satisfaction of Council.
- (124) Prior to the issue of an Occupation Certificate, evidence shall be provided to Council's Manager Development Assessments demonstrating that an agreement between the beneficiary of the consent and a waste contractor has been entered into for the collection of waste from the residential flat building in accordance with the approved *Plan of Manager – Waste Collection (General Waste and Recycling)*.
- (125) The heritage interpretation strategy (as amended by condition of consent) shall be fully implemented prior to the issue of an Occupation Certificate.
- (126) The approved external lighting plan as it relates to Lots 601 and 602 shall be fully implemented prior to the issue of an Occupation Certificate.
- (127) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater treatment system and detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (128) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (129) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (130) Certificates for testable Backflow Prevention Devices are to be submitted to Orange City Council by a plumber with backflow qualifications prior to the issue of an Occupation Certificate.
- (131) Prior to the issue of an Occupation Certificate all works on Lot 602 (in addition to the dedication of Lot 602 to Council) as detailed in the executed Planning Agreement and approved plans shall be fully completed at no cost to Orange City Council.
- (132) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (133) The owner of the building/s must cause the Council to be given a Final Fire Safety Certificate on completion of the building in relation to essential fire or other safety measures included in the schedule attached to this approval.
- (134) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a Final Notice of Inspection issued, prior to the issue of a final Occupation Certificate.

**Conditions (cont)**

- (135) The cut and fill is to be retained and/or adequately battered and stabilised (within the allotment) prior to the issue of an Occupation Certificate.

<b>MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT</b>
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- (136) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.
- (137) The collection of waste shall occur in accordance with the approved *Plan of Management – Waste Collection (General Waste and Recycling)* in perpetuity.

<b>REQUIREMENTS OF ESSENTIAL ENERGY</b>
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- (1) As part of the subdivision if an easement is created for any existing electrical infrastructure, the easement/s is/are to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision.
- (2) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the subject property should be complied with.
- (3) Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions.
- (4) In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
- (5) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
- (6) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.
- (7) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

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**Other Approvals**

- (1) *Local Government Act 1993* approvals granted under section 68.
- Nil
- (2) General terms of other approvals integrated as part of this consent.
- Nil

Conditions (cont)

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**Right of Appeal**

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

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***Disability Discrimination Act 1992:***

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

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**Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

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**Signed:**

On behalf of the consent authority **ORANGE CITY COUNCIL**

**Signature:**

**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

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**Date:**

3 May 2023

## Annexure F

**Objection pursuant to the provisions of Clause 4.6 Orange Local Environmental Plan 2011****Property 103 Prince Street, Orange (Lot 501 DP 1249083)****Variation of a development standard regarding maximum height of building as detailed in Clause 4.3 of the Orange Local Environmental Plan 2011.****Introduction:**

This objection is made pursuant to the provisions of Clause 4.6 of Orange Local Environmental Plan 2011 (OLEP 2011). In this regard it is requested the consent authority support a variation with respect to compliance with the maximum height of buildings development standard as described in Clause 4.3 of the OLEP 2011.

It is noted that developments that breach a development standard in an environmental planning instrument (EPI), such as the maximum height, maximum floor space ratio or minimum lot size, need to reflect the strict approach to clause 4.6 variation requests taken by consent authorities, including the Land and Environment Court, following the decision of Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council*.

## 1.0 Environmental Planning Instrument that Applies to the Land

Orange Local Environmental Plan 2011 (OLEP 2011).

## 2.0 Zoning of the Land

The subject site is zoned R3 Medium Density Residential and RE1 Public Recreation. The proposed variation affects the R3 Medium Density Residential zone of the site.

## 3.0 Zone Objectives

The objectives of the OLEP 2011 R3 zone are:

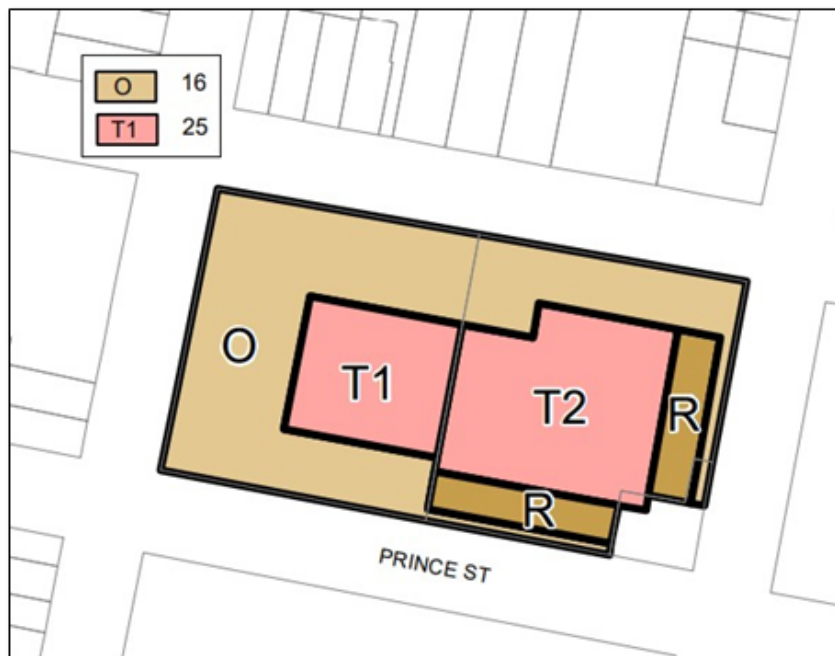
- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.

## 4.0 Development Standard and Clause 4.3 (2) being varied

### 4.3 Height of buildings

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Maximum Height of Buildings Map of the OLEP 2011 identifies the site as comprising a 16m and 25m building height. Variation is sought to the 16m building height.



## **5.0 Objectives of the Development Standard**

The underlying purpose of the development standard is to control the height of development on a site in proximity to the City centre under Clause 4.3 of the OLEP 2011.

- (1) *The objectives of this clause are as follows—*
- (a) *to provide for taller buildings in the City centre and to enable a transition in building height in response to varying urban character and function,*
  - (b) *to protect the amenity of neighbouring properties and public places, with particular regard to visual bulk, scale, overshadowing, privacy and views.*

## **6.0 Numeric Value of the Development Standard**

Clause 4.3 and its supporting Height of Buildings Map restricts development to 16m and 25m. The numeric value of the Development Standard to which variation is sought is 16m.

## **7.0 Proposed Numeric Value and Percentage Variation to the Development Standard of the Development Application**

The proposed new residential flat building will have the following:

Maximum Building Height = 19.65m Ridgeline (lift overrun 20.25m)

Actual Height Variation = 1.47m – 3.65m

Percentage variation = 9.2% – 22.8%

The non-compliance, varies from a minor encroachment of the level 4 façade up to the level 5 apartment encroachment.

The level 4 façade breach varies from 0.68m to its maximum 1.47m for only 22.1% of the footprint of the building.

The level 5 apartment breach varies from 1.47m to its maximum 3.65m for only 20.6% of the footprint of the building.

The total breaching area consumes 7.8% of the site of which the remaining 92.2% of the site is compliant.

It is noted no buildings are sought over the RE1 zoned land which comprises a 25m height of buildings development standard.

In Initial Action Preston CJ differentiated the consent authority's role in assessing a clause 4.6 written request from its role in assessing the development as a whole – something his Honour referred to as two "positive states of satisfaction". The first state of satisfaction is "indirect" while the second is "direct".

The first positive state of satisfaction as detailed below addresses and demonstrates:

1. That compliance with the development standard is unreasonable or unnecessary in the circumstance (cl 4.6(3)(a)); and
2. That there are sufficient environmental planning grounds to justify non-compliance with the development standard (cl 4.6(3) (b));

Consideration is provided below having regard to the five *Wehbe v Pittwater Council (2007)* method of demonstrating the objectives of the development standard are achieved notwithstanding the non-compliance.

## **8.0 How is strict compliance with the development standard unreasonable or unnecessary in this particular case**

Councils controls in Clause 4.3 provide a maximum building height to the centre and east of the site of 25m and 16m to the north, west and southern portions of the site.

It is considered that the proposal achieves the objectives of Clause 4.3 and that the development is justified in this instance for the following reasons:

- (a) to provide for taller buildings in the City centre and to enable a transition in building height in response to varying urban character and function,*

Response:

The proposal contributes positively to the desired medium residential density of the transitioning CBD and surrounding area. The medium-rise residential apartment building is positioned on the south of the site to assist the transition from the residential neighbourhood to the north and west up to the higher density commercial and educational uses to the east and south towards the city centre. The proposal will provide a development with a compliant building setback and facade line equal to that of the adjoining commercial development at 105 Prince Street as demonstrated in Appendix 3. The footprint of the upper level is set back from the outer walls of the level below and the height of the parapet to the levels below is consistent with the streetscape RL of 105 Prince Street. Therefore, the proposal fits contextually within the scale of adjoining development and the transition from the City centre.

- (b) to protect the amenity of neighbouring properties and public places, with particular regard to visual bulk, scale, overshadowing, privacy and views.*

Response:

Exceedance of the height control will not create additional building bulk that results in environmental amenity impacts in terms of overshadowing, loss of views, loss of privacy or loss of visual amenity and a reduction in the height would not create additional benefit for adjoining properties or the locality.

Visual Bulk and Scale:

- The proposed development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from Sale Street, Prince Street and the surrounds of the site.
- The proposal will provide a development, which is consistent with the envisaged transitioning scale of the adjoining developments and is of an appropriate visual bulk for the locality, responding to the commercial uses to the east and south as the key transition from the residential use to the adjoining commercial uses and city centre.
- The proposal is compliant with the floor space ratio requirements set out under the OLEP 2011.
- The proposed bulk and scale of the development is in keeping with the planning ambitions for this location to support medium density residential development.
- The encroachment consists of a small portion of the buildings façade roofline and also a section of the level 5 penthouse apartments. The penthouse apartments have been recessed from the streetscape elevations. Placing these apartments with considerable setbacks from the building line results in minimal bulk and scale impact from the proposed variation.
- I have formed the considered opinion that most observers would not find the proposed developments height encroachment, by virtue of its height unsympathetic having regard to the existing and desired future built form characteristics of adjoining development. The visual catchment effect of the development would have an equal impact with or without the proposed encroachment.

Overshadowing:

- The proposal will not result in unreasonable overshadowing of adjoining properties. In particular, it is noted that the height breach at the penthouse level does not result in any additional loss of solar access to adjoining properties and the proposal is fully compliant with the solar access controls for adjoining properties and the development itself. The proposed development increases the provision of public open space offerings for surrounding residents through the provision of an additional open space offering. The breaching element of the development is located to the south of the additional offering and would not contribute to overshadowing of the open space area.
- The breaching element only results in minor additional overshadowing of the neighbouring commercial premises from 3pm and 4pm winter solstice 21<sup>st</sup> June as demonstrated in Appendix 4. Outside this 2 hour period during winter solstice the development, in either a compliant built form or with the breaching element, produce the same overshadowing effect.

Privacy:

- The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.
- The breaching element has been designed to ensure visual and acoustic privacy of adjoining properties is maintained as the uppermost dwelling and its living areas are 'tucked into and centred' upon the roof level concealed by the roof and floor level of the those below.
- Given the separation distances of the penthouse level from surrounding properties, the breach will not result in the loss of privacy for adjoining properties.
- The proposed and existing landscaping will further soften and screen perceived privacy impacts from adjoining dwellings. It should be noted that the majority of surrounding properties in Prince Street, Sale Street and Dalton Street have a traditional private open space arrangement upon their lots located within their rear yards. It should also be noted that a large number of these dwellings operate commercially with a variety of business throughout Sale Street and Dalton Street not utilised as dwellings.
- The proposed penthouse level has been designed to minimise impacts in terms of the acoustic or visual privacy of adjoining properties being located to ensure that sightlines are not directly available to private open space or windows to habitable spaces of adjoining properties by providing generous setbacks from the edge of the level below and in effect concealed by the parapet level below.
- The proposed penthouse level does not increase the privacy impacts (visual or acoustic) of the proposed development on adjoining properties or the surrounding neighbourhood. Removal of the proposed height encroachment does not reduce the visual or acoustic impact of the proposed development.

Views:

- The proposed penthouse level will not result in any increased loss of views from surrounding development due to its setback location and limited footprint.
- The encroachment will not result in loss of views from the public domain. Non-compliance with the standard does not contribute to adverse environmental impacts when viewed from the public domain.

The proposed height encroachment will not have any additional impacts on the amenity of neighbouring properties or public spaces within the locality therefore a reduction in the proposed height will not result in improved amenity for adjoining properties.

The second positive state of satisfaction as detailed below addresses and demonstrates and development is in the public interest noting:

1. The objectives of the development standard; and
2. The objectives of the zone

An assessment as to the consistency of the proposal when assessed against the objectives of the R3 of the OLEP 2011 zone is as follows:

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

Response:

The proposal is consistent with this objective as the subject application proposes the construction of a 5 storey residential flat building within a medium density residential zone identified as being appropriate for increased residential densities. The annual population and economic growth Orange is experiencing has led to an increase in the diversity of demographics choosing Orange to live, work, retire and invest and therefore an increase in the need for housing diversity. There is currently limited supply of centrally located medium density housing product within Orange. The new development strongly responds to the in-demand locale for a unique medium density residential development by providing high quality apartment and townhouse living. The proposal will provide a mix of one bedroom, two bedroom and three bedrooms offering a high level of amenity within walking distance of public transport, shops and other services.

Recent market research for the development has demonstrated that the developments mix of apartment choice is supported and desired with over 250 enquiries during the EOI on the project, of which 80% were for 3 bedroom units and predominately from people looking to downsize. Additionally, Umwelt have been commissioned to prepare a Housing Needs and Diversity Study in consideration of the social / economic residential development outcomes of the project. The study finds that the development responds to a broad survey of apartment mix policy aiming to achieve unit diversity, responsiveness to market and demographic demand, high quality design outcomes and a broad variety in housing options.

In this regard the housing needs within a medium density residential environment for Orange have been considered in the design of the proposal and are confirmed through the abovementioned market research and the Housing Needs and Diversity Study.

- *To provide a variety of housing types within a medium density residential environment.*

Response:

The proposal is consistent with this objective as it will provide a variety of unit sizes and configurations to meet the identified housing needs of the community and current market demand. The variation in the size of both the two bedroom and three bedroom apartments provides accommodation for a range of needs and budgets, whilst providing a mix of housing product.

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

Response:

This objective is not relevant to the subject proposal and associated land use.

- *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.*

Response:

The site is a 3 minute drive or 10 minute flat walk to Orange's CBD. The site is approximately 1.2km from Orange Railway Station, which is on the Main Western railway line running from Sydney to Dubbo and provides regional connections to Parkes and Bathurst among others. There are also a number of open space and recreational areas within a nearby catchment including: Robertson Park, Northcourt Area, Blackmans Swamp Creek, Ratcliffe Park, Perry Oval, Orange Golf Club and Orange Showground. The proposal will provide one, two and three bedroom dwellings offering a high level of amenity within walking distance of public transport, shops and other services.

Given the developments consistency with the objectives of the standard and the zone, strict compliance has been found to be both unreasonable and unnecessary under the circumstances. The proposed development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives of the R3 zone.

Further to the objectives of Clause 4.3 of the OLEP 2011, strict compliance would hinder the attainment of the objectives of Clause 4.6 of the OLEP 2011, in that:

- The new development is in harmony with the bulk and scale of adjoining buildings to the east and the streetscape.
- The new building does not impact upon the amenity of adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion.
- The new building complies with the remaining development standards of the OLEP 2011.
- The new development complies with the solar access, landscaping and setback controls of for the site.
- The modest non-compliance is consistent with the current and desired future character of the locality.

The non-compliant height components of the proposed development:

- achieves the objectives of the height development standard,
- achieves the objectives of the R3 zone,
- creates no additional impact of the amenity of neighbouring properties above that of a compliant version of the development.

Given the above, the proposed building height is consistent with the OLEP 2011 objectives and the consent authorities support to the proposed increase in building height is requested.

## **9.0 Would strict compliance tend to hinder the attainment of the objectives of Clause 4.6 of Clause 4.6 of the OLEP2011**

Noting the above considerations address the consideration provisions of Clause 4.6(3)(a) Consideration in accordance with the provisions of Clause 4.6(3)(b) is provided as follows:

In *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* the Court found that:

“As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.”

There are sufficient planning grounds to justify contravening the development standard as the additional height can be accomplished without adverse impacts upon its surrounds whilst also achieving the objects in Section 1.3 of the EPA Act.

The proposed development achieves the objects identified in Section 1.3 of the EP&A Act 1979, specifically:

- The proposal promotes the orderly and economic use and development of land (1.3(c)).
- The development represents good design and amenity of the build environment (1.3(g)).
- The building as designed facilitates its proper construction and will ensure the protection of the health and safety of its future occupants (1.3(h)).

The proposed development is consistent with the provisions of orderly and economic development of land, in that it proposes to provide new medium density housing with a high level of design and amenity, in a manner, which meets the objectives of those applicable controls. This new residential accommodation over its economic life is consistent with the promotion and coordination of the orderly use and development of land.

The proposed height can be achieved without adverse impacts for the following reasons:

- The proposed penthouse level will not result in any increased loss of views from surrounding development due to its setback location and limited footprint.
- Given the separation distances of the penthouse level from surrounding properties, the breach will not result in the loss of privacy for adjoining properties.
- The proposal will not result in unreasonable overshadowing of adjoining properties. In particular, it is noted that the height breach at the penthouse level does not result in any additional loss of solar access to adjoining properties and the proposal is fully compliant with the solar access controls for adjoining properties and the development itself.
- The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.
- The proposal will provide a development, which is consistent with the envisaged transitioning scale of the adjoining developments and is of an appropriate visual bulk for the locality.
- The development as proposed fits contextually with the site and streetscape as the intensity of the development is appropriate and acceptable, having regard to existing adjoining development and envisaged scale transition towards the CBD.
- Non-compliance with the standard does not contribute to adverse environmental impacts and when viewed from the public domain, the appearance of the development will make a positive contribution to the streetscape.
- The proposed development provides an articulated building form that minimises perceived bulk and scale impacts when viewed from Sale Street, Prince Street and the surrounds of the site.
- Reduction in the proposed height will not result in improved amenity for adjoining properties.
- Given the consistency of the proposal against the zone objectives and height objectives, consideration that the height can be achieved without adverse impacts on adjoining properties and that the development achieves the objects in Section 1.3 of the EP&A Act in my considered opinion there are sufficient environmental planning grounds to justify contravening the development standard.

#### Clause 4.6 (4)

(4) *Development consent must not be granted for development that contravenes a development standard unless—*

(a) *the consent authority is satisfied that—*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Notwithstanding the above consideration *In Action Pty Ltd v Woollahra Municipal Council [2018]* the Court found that clause 4.6(4) required the satisfaction of two preconditions.

The first precondition is found in clause 4.6(4)(a), that precondition requires the formation of two positive opinions of satisfaction by the consent authority. The first positive opinion of satisfaction (cl 4.6(4)(a)(i)) is that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3)(a)(i) and the second positive opinion of satisfaction (cl 4.6(4)(a)(ii)) is that the proposed development will

be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

The second precondition is found in clause 4.6(4)(b). The second precondition requires the consent authority to be satisfied that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained.

#### Clause 4.6(a)(i)

The consent authority needs to be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

In *Initial Action Pty Ltd v Woollahra Municipal Council [2018]* the Court described the relevant test for this as follows:

*“The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development’s consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).”*

As demonstrated above in this written request, the proposed development is consistent with the objectives of the development standard and the objectives of the zone in which the development is proposed to be carried out. Accordingly, the consent authority can be satisfied that the proposed development will be in the public interest if the standard is varied because it is consistent with the objectives of the standard and the objectives of the zone.

Strict compliance with this building height development standard is unreasonable or unnecessary because it would restrict the opportunity to provide a modest contemporary higher density housing in the city of Orange that complies with all other bulk and scale development controls and the comments and considerations with regard to heritage and housing needs.

The objectives of Clause 4.6 seek to provide flexibility and improved outcomes. Given the site location and minimal impacts of the non-compliance, some flexibility in the building height control is considered suitable and appropriate.

Accordingly, it is evident that the objectives of Clause 4.6 of the OLEP 2011 can be achieved, and a better planning outcome is facilitated from the development by allowing flexibility in this circumstance.

## **10.0 Is the objection well founded**

It is considered that a variation to the height of building development standard can be supported on merit for the following reasons:

- Given the developments consistency with the objectives of the standard and the zone, strict compliance has been found to be both unreasonable and unnecessary under the circumstances. The proposed development will be in the public interest because it is consistent with the objectives of the height development standard and the objectives of the R3 zone.
- There are sufficient planning grounds to justify contravening the development standard as the additional height can be accomplished without adverse impacts upon its surrounds whilst also achieving the objects in Section 1.3 of the EPA Act.

- The proposed development is consistent with the provisions of orderly and economic development of land, in that it proposes to provide new medium density housing with a high level of design and amenity, in a manner, which meets the objectives of those applicable controls.
- This new residential accommodation over its economic life is consistent with the promotion and coordination of the orderly use and development of land.

## **11.0 Conclusion**

As required by Clause 4.6(3)(a) and 4.6(3)(b), this document has considered that there are sufficient environmental planning grounds to justify the variation on the basis that compliance with the standard would be unreasonable and unnecessary in the circumstances of this particular case. As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives of the R3 zone.

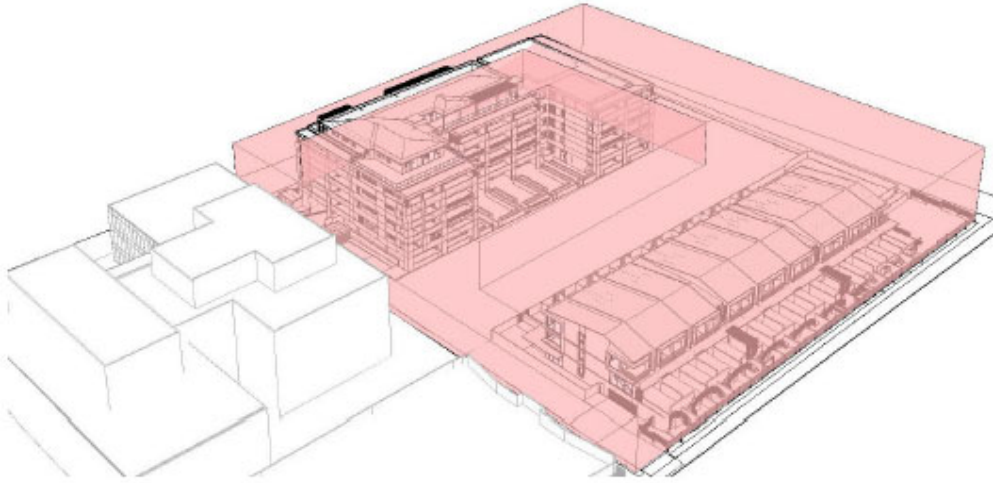
Therefore, having regard to the above compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case given the developments ability to comply with the zone and height of buildings standard objectives, that approval would not be antipathetic to the public interest and the lack of impact arising from the breach of the control.

The consistency of the development with the objectives of the height standard and the lack of impact arising are sufficient grounds to support that breach and confirms the lack of necessity for the development to comply. This therefore demonstrates sufficient environmental planning grounds to justify contravening the standard. In addition, the resultant development will be in the public interest and there is no public benefit in maintaining the control.

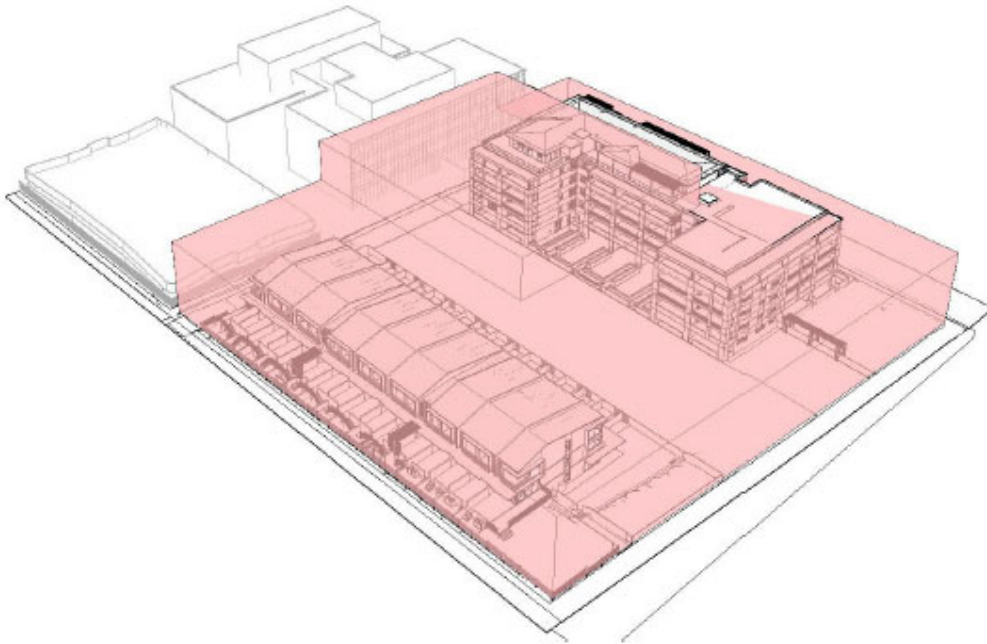
As such, I have formed the considered opinion that there is no statutory or environmental planning impediment to the granting of a height of buildings variation in this instance.

Additionally the proposal is considered to satisfy the two positive states of satisfaction both direct and indirect and subsequently achieves the jurisdictional requirements of the consent authority for Clause 4.6.

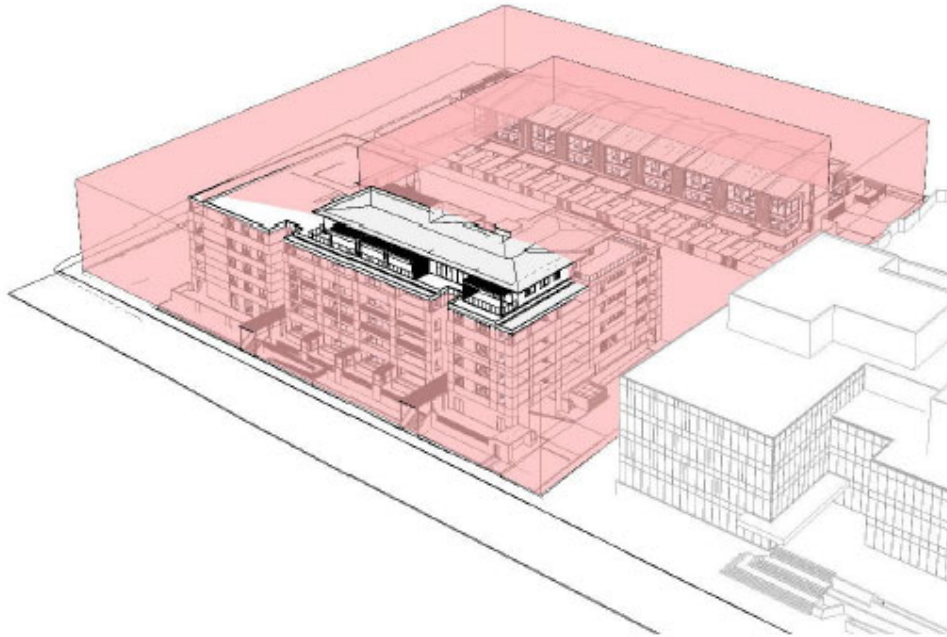
This written request is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard.

**Appendix 1 – Building Envelope Diagrams**

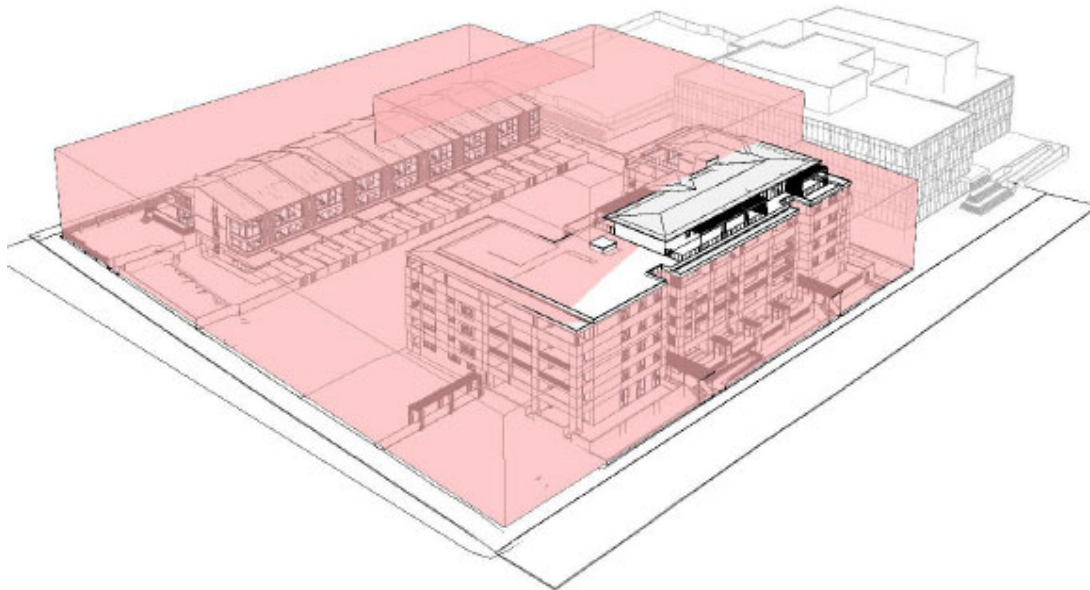
BUILDING ENVELOPE DIAGRAM -NORTH EAST



BUILDING ENVELOPE DIAGRAM -NORTH WEST



BUILDING ENVELOPE DIAGRAM -SOUTH EAST



BUILDING ENVELOPE DIAGRAM -SOUTH WEST

## Appendix 2 – Building Envelope Elevations



② WEST ELEVATION - (SALE ST)  
1 : 200

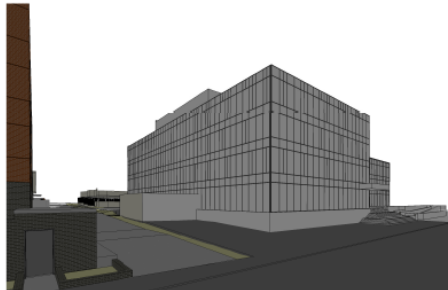


3 EAST ELEVATION  
1 : 200

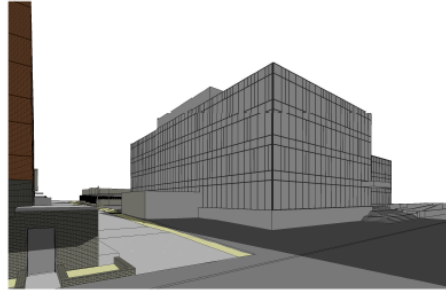
## Appendix 3 – Height Comparison



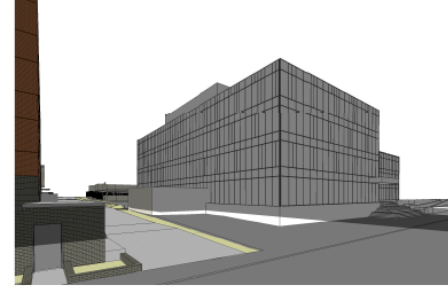
## Appendix 4 – Overshadowing Diagrams



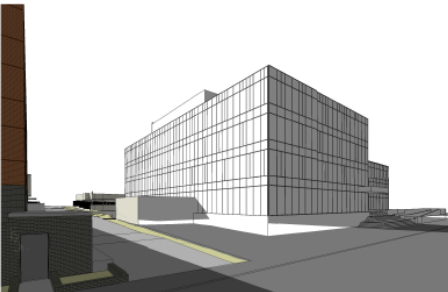
① Winter Solstice - 21st June 9AM



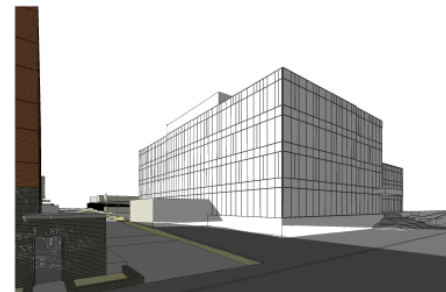
② Winter Solstice - 21st June 10AM



③ Winter Solstice - 21st June 11AM



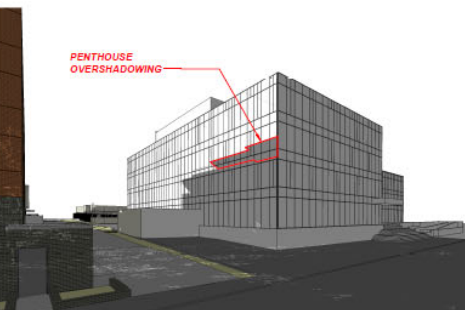
④ Winter Solstice - 21st June 12PM



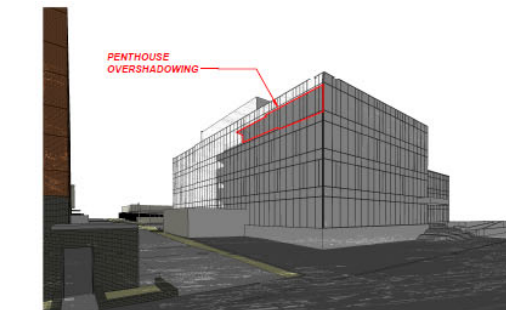
⑤ Winter Solstice - 21st June 1PM



⑥ Winter Solstice - 21st June 2PM



⑦ Winter Solstice - 21st June 3PM



⑧ Winter Solstice - 21st June 4PM



⑨ Winter Solstice - 21st June 5PM

## Annexure G

Chief Executive Officer  
Orange City Council  
PO Box 35  
Orange NSW 2800

20<sup>th</sup> April 2023

Sent by Email: [council@orange.nsw.gov.au](mailto:council@orange.nsw.gov.au)

Reference: DA 98/2022(1)

I make this application to be considered in relation to DA 98/2022(1) on behalf of the owners of 105 Prince Street Orange, Verde Property. I have several concerns with the current application which are mostly around Shadowing of the building and the impact to wellness and energy consumption and the increase of cars into local traffic and competing for on street parking.

In the lodged documents on the DA portal, I have noted significant shadowing on our building located at 105 Prince. This does in fact place a significant energy impact on the building requiring more energy to heat the building during cooler months. This will be a permanent drain on resources and increased carbon emissions from a building that was designed to have minimal impact on the environment. Pages 14-15/24 in 3-Revised-Architectural-plans-uploaded-to-portal-21.03.23 show a significant shadow across the Southwestern side of the building that will both impact temperature control and lighting. This can easily be revised by reducing the overall height of the proposed development and moving it further west on the block. Clearly the removal of natural light from the office environment is not desirable for the wellbeing and health of the people working within the building.

The noted *Seca traffic report* (12 Traffic Engineers Statement) does not in fact address or even identify any impacts to local traffic. There is no supplied study on the levels of congestion around intersections with Prince and Anson Street or the expected traffic movements past key infrastructure sites such as the Ambulance station on Dalton Street or the Community centre on Prince Street. There are two pre-schools within a block of 103 and our estimations place the number of vehicles being added into this precinct at over 300. This is a significant concern to us and should be to local residents with children walking to school bus stops or even to school at Bletchington Public School. I would request that a traffic study be carried out to determine the actual impact on the roads, intersections and local community. Parking is a long term issue within Orange CBD and as there are only just over 100 car park spaces in the development, where will the extra 200 cars park and where will visitors park?

Verde Orange Pty Ltd  
Orange Trust  
Registered Address:  
Postal Address:



Whilst we acknowledge the need for affordable housing within Orange this is a targeted pitch at the upper end of the market with a 2 bedroom unit at 103 Prince around \$750,000 and the Orange median 2 bedroom house is currently at \$570,000 (source Domain on 53 houses sold 2023). Clearly the maximisation of profits for the developer is the primary concern with no assistance being provided to actual affordable housing. These properties will be bought by professional couples which will bring at least two cars. Some of the units will be bought as investment properties to rent out which is likely to yield even more vehicles as people house/unit share to afford the rental. This will only add to the number of vehicle movements in the surrounding blocks and CBD.

In summary, the apartment block is still too high and attracts too many vehicles. As a residential development much more care needs to be directed into making this residential address fit within the beauty of Orange's architecture. Once this is built it is too late and the precedent is set, we must make every effort to ensure we steer this development in the direction of Orange's future and not end up like the Bathurst CBD; wishing we made more of an effort to retain our country town beauty and tranquillity. We only have one opportunity to get this right and more information should be sought to ensure the resultant levels of traffic and changes in the appearance of the historic architecture aren't impacted beyond a point from which they will never recover.

Yours Sincerely

Verde Orange Pty Ltd  
Orange Trust  
Registered Address:  
Postal Address:

Submission 2

Your ref: DA 98/2022(1) - PR28313

Our ref: OUT23/5290

Chief Executive Officer  
Orange City Council  
PO Box 35  
Orange NSW 2800

By email: [council@orange.nsw.gov.au](mailto:council@orange.nsw.gov.au)

20 April 2023

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**Submission: Development Application – DA 98/2022(1)**

**Lot 501 DP 1249083 - 103 Prince Street, Orange**

I refer to Paul Johnston's letter dated 22 March 2023 regarding the revised documents submitted by the applicant in relation to the above DA. Thank you for the opportunity to provide comment.

As Orange City Council is aware, the neighbouring property at 105 Prince Street is owned by Verde Property and the NSW Department of Planning and Environment (DPE) occupies the building as a tenant. I am writing to provide comments on behalf of DPE Corporate Services division in its capacity as a tenant.

DPE remains supportive in principle of the addition of medium density residential accommodation in Orange, and the comments below on behalf of DPE Corporate Services are intended to contribute to improvements in design, noting that the development will set a precedent for higher density development in Orange.

**General comments**

DPE acknowledges the revisions that have been made by the applicant, and considers the revisions an overall improvement on the proposed development. The revised design has in part addressed a number of the issues raised by DPE in previous correspondence.

Set out below are our more specific comments which relate principally to the request for height variation under the Orange Local Environmental Plan 2011 (OLEP), and the proposed shared accessway.

**Request to Height Variation**

The applicant has submitted a revised request pursuant to clause 4.6 of the OLEP to support a variation of the maximum height restrictions applicable to the site.

The predominant purpose for which the variation is required is to accommodate the 2 penthouses proposed on Level 5 of the apartment building.

## Department of Planning and Environment

In making a written request pursuant to clause 4.6 of the OLEP, the applicant is required to demonstrate that:

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has stated that *“Strict compliance with this building height development standard is unreasonable or unnecessary because it would restrict the opportunity to provide a modest contemporary higher density housing in the city of Orange”* (Revised Clause 4.6 Variation Request, page 9). However, all of the 16 proposed townhouses, and 58 of the 60 proposed apartments can be developed within the existing building envelope and height restriction, realising the opportunity to provide higher density housing.

DPE is concerned about the design and orientation of the proposed penthouses for the following reasons:

- a) Privacy. The proposed location of the penthouses on Level 5 places them in direct line of sight of the occupants of the office building at 105 Prince Street.

The penthouses each have very large areas of private open space which are bordered by glass fencing. The Architectural Plans also include floor to ceiling glass windows and doors along the exterior walls of the penthouses. The outdoor patios and glass windows and doors face the western façade of the office building on 105 Prince Street, which is primarily glass.

There is a high density of workstations along this façade, and building occupancy continues to increase. There are numerous government departments located in the building, and employees can often work outside normal business hours. Likewise, internal maintenance, cleaning and government projects can be conducted in the building out of business hours including weekends.

The location of the penthouses and the other factors described above will impact on privacy for the residents of the penthouses. The residents of the penthouses will also be exposed to lighting and movement within the building both within and outside of business hours.

This issue appears to have been mitigated in relation to the townhouses and the remainder of the apartments, which are oriented differently with windows located to avoid direct line of sight from 105 Prince Street.

- b) Overshadowing. The inclusion of an accessway along the eastern boundary of the proposed development has provided additional setback from 105 Prince Street, which has given some relief to the overshadowing created by the development. However, as illustrated in Appendix 4 of the Revised Clause 4.6 Variation Request, the penthouses contribute to additional overshadowing of the office building, including in mid-winter.

The height variation, design and orientation of the penthouses do not appear to be consistent with the guidance in the Apartment Design Guide for minimising overshadowing and impacts on privacy.

### Shared Accessway

We note that the revisions to the DA include:

- a) a north/south accessway between the western boundary of 105 Prince Street and the eastern boundary of the proposed development; and
- b) the basement entry has been relocated from Sale Street to the eastern boundary of the proposed development.

While the supporting documents provide some information regarding the accessway, more detail would be beneficial to consider the impact of the design. In particular:

- a) Security. To ensure security the throughfare should be well lit, and designed to eliminate any concealed corners or spaces where loitering could occur. Although the Revised External Lighting Plan provides some detail regarding light installation, it would be useful to understand the dispersal of light and shadow from the planned lighting, and the form of the waste bin collection area and any other structures along the accessway to ensure security and inherent visual surveillance.
- b) Landscaping. DPE welcomes the inclusion of landscaping and deep soil planting to provide visual screening between 103 and 105 Prince Street, and to enhance the natural amenity of the development. The landscaping plans refer to “*small trees and screening shrubs*”, and more detail regarding the species proposed for planting would be useful given the shared boundary.
- c) Pedestrian pathway. We note Council’s requirement for a grade separated pedestrian path of 1.2m – 1.5m to be located on the eastern side of a common driveway has not been included in the proposed development. Instead, the applicant has proposed a single 6.0m wide accessway to be shared by vehicles, pedestrians and cyclists.

The applicant has submitted a Traffic Engineer’s Statement advising that a separate pedestrian pathway would not be required because “*This driveway will provide access for the future residents of the development site only and there will be little if any demand for the general public to walk along this driveway. The low traffic volumes on this driveway, together with the low pedestrian demands will ensure that this shared zone can operate in a safe manner.*”

The Traffic Engineer’s Statement does not refer to any evidence supporting those conclusions. The local environment and neighbours should both be taken into consideration in assessing traffic impact and any demand by the general public to use the accessway.

Relevant local factors include:

- i. the portion of Sale Street that connects Prince Street and Dalton Street incorporates herringbone parking, which inhibits vehicle movement and may prompt residents of Orange to use the shared accessway instead (given that both will have the same speed zones);

## Department of Planning and Environment

- ii. the shared accessway will provide direct connection to the public park contained within 103 Prince Street for the residents and businesses of Dalton, Prince and Anson Streets and beyond;
- iii. likewise, it will provide the most convenient access to the public park for students, visitors and employees of TAFE and the tenants of 105 Prince Street; and
- iv. the shared accessway would also provide a more direct connection for students and staff of TAFE to enter/exit the campus to access medical services or car parking on Dalton Street.

There will also be significant use of the accessway by residents, visitors and service providers in connection with the apartments and townhouses. This is because the accessway:

- i. is the only point of vehicular access to residential parking for the development;
- ii. is the designated area for loading and unloading of removalists and deliveries, and the provision of services like waste removal; and
- iii. will be used by residents looking for parking on neighbouring streets, noting that it is unlikely that residential parking needs will be fully met by the designated basement parking.

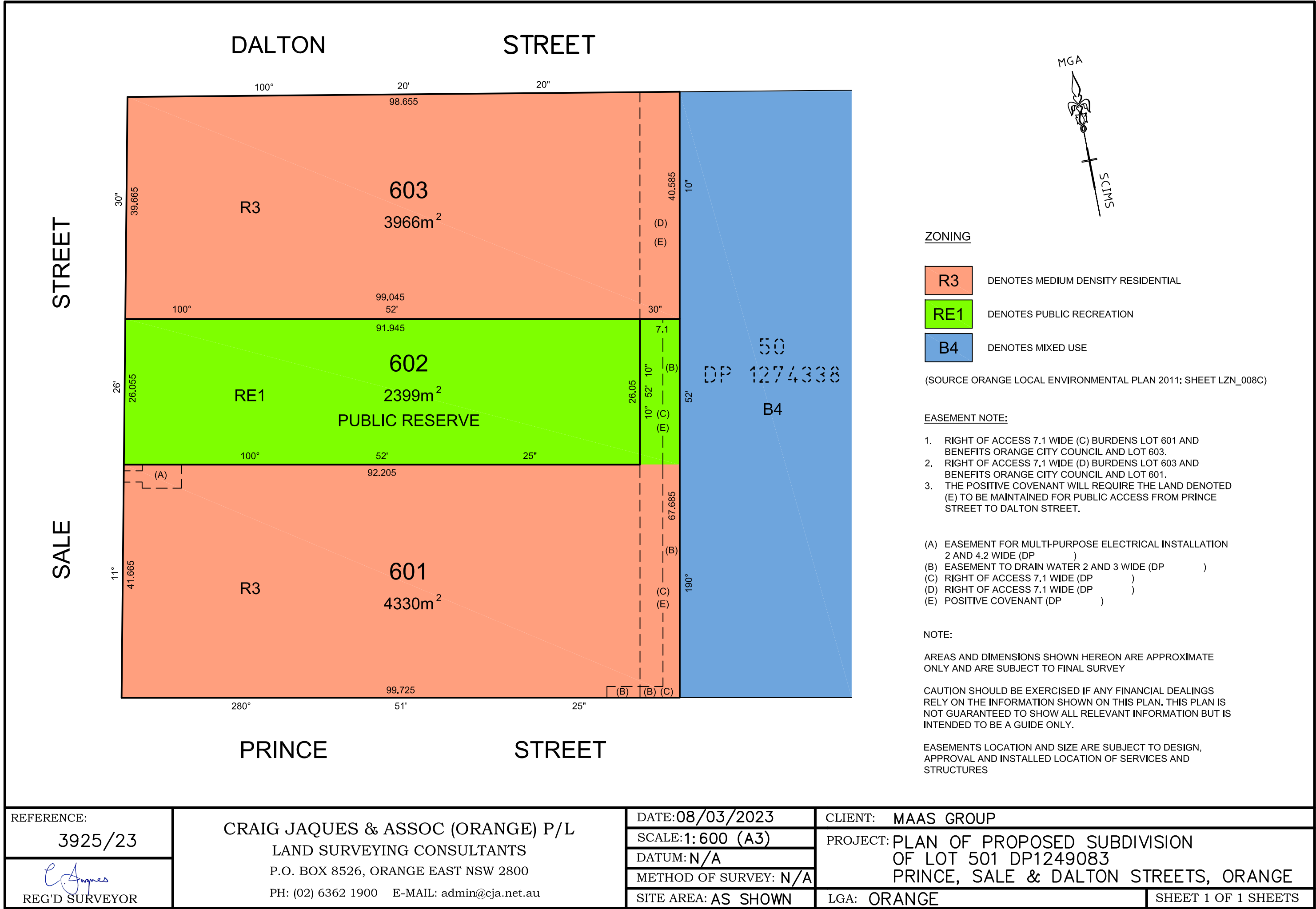
Considering the factors above, it appears that the separate pedestrian path requested by Council adjacent to a road for two-way vehicle traffic would provide a better option for pedestrian safety rather than combining pedestrian, cyclist and vehicle traffic.

Thank you again for the opportunity to comment on the revised submission.

Yours sincerely,

NSW Department of Planning and Environment

## Annexure H



## Annexure I

# BASIX<sup>®</sup>Certificate

Building Sustainability Index [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

## Multi Dwelling

Certificate number: 1288407M\_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au)

This certificate is a revision of certificate number 1288407M lodged with the consent authority or certifier on 24 March 2022 with application DA98/2022(1).

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000

Secretary

Date of issue: Tuesday, 18 April 2023

To be valid, this certificate must be lodged within 3 months of the date of issue.



Planning,  
Industry &  
Environment

### Project summary

Project name	18041_02
Street address	103 Prince Street Orange 2800
Local Government Area	Orange City Council
Plan type and plan number	deposited 1249083
Lot no.	501
Section no.	-
No. of residential flat buildings	1
No. of units in residential flat buildings	60
No. of multi-dwelling houses	16
No. of single dwelling houses	0

### Project score

Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 35	Target 35

Certificate Prepared by



(ABN: 27 131 950 064)

Ph: 02 4962 3439

Email: [enquiries@buildingsustainability.net.au](mailto:enquiries@buildingsustainability.net.au)

Revision of Certificates not lodged within 3 months of the date of issue will incur further BASIX issuing fees.

# Description of project

## Project address

Project name	18041_02
Street address	103 Prince Street Orange 2800
Local Government Area	Orange City Council
Plan type and plan number	deposited 1249083
Lot no.	501
Section no.	-

## Project type

No. of residential flat buildings	1
No. of units in residential flat buildings	60
No. of multi-dwelling houses	16
No. of single dwelling houses	0

## Site details

Site area (m²)	10694
Roof area (m²)	3133
Non-residential floor area (m²)	0.0
Residential car spaces	124
Non-residential car spaces	0

## Common area landscape

Common area lawn (m²)	0.0
Common area garden (m²)	100.0
Area of indigenous or low water use species (m²)	-

## Assessor details

Assessor number	DMN/13/1491
Certificate number	0007109990
Climate zone	65
Ceiling fan in at least one bedroom	No
Ceiling fan in at least one living room or other conditioned area	No

## Project score

Water	✓ 41	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 35	Target 35

## Description of project

The tables below describe the dwellings and common areas within the project

### Residential flat buildings - Building1, 60 dwellings, 6 storeys above ground

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
101	2	101.0	0.0	0.0	0.0
106	3	135.0	0.0	0.0	0.0
111	1	58.0	0.0	0.0	0.0
203	2	116.0	0.0	0.0	0.0
208	3	114.0	0.0	0.0	0.0
301	2	101.0	0.0	0.0	0.0
306	3	135.0	0.0	0.0	0.0
311	3	119.0	0.0	0.0	0.0
404	3	132.0	0.0	0.0	0.0
409	1	58.0	0.0	0.0	0.0
G01	2	101.0	0.0	55.0	0.0
G06	3	135.0	0.0	30.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
102	3	119.0	0.0	0.0	0.0
107	2	100.0	0.0	0.0	0.0
112	1	71.0	0.0	0.0	0.0
204	3	139.0	0.0	0.0	0.0
209	2	87.0	0.0	0.0	0.0
302	3	119.0	0.0	0.0	0.0
307	2	100.0	0.0	0.0	0.0
312	2	102.0	0.0	0.0	0.0
405	3	135.0	0.0	0.0	0.0
410	3	119.0	0.0	0.0	0.0
G02	2	97.0	6.0	34.0	0.0
G07	2	99.0	0.0	55.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
103	2	116.0	0.0	0.0	0.0
108	3	114.0	0.0	0.0	0.0
113	2	92.0	0.0	0.0	0.0
205	3	132.0	0.0	0.0	0.0
210	1	58.0	0.0	0.0	0.0
303	2	116.0	0.0	0.0	0.0
308	3	114.0	0.0	0.0	0.0
401	2	101.0	0.0	0.0	0.0
406	2	100.0	0.0	0.0	0.0
411	2	102.0	0.0	0.0	0.0
G03	2	116.0	0.0	42.0	0.0
G08	2	94.0	0.0	30.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
104	3	139.0	0.0	0.0	0.0
109	2	87.0	0.0	0.0	0.0
201	2	101.0	0.0	0.0	0.0
206	3	135.0	0.0	0.0	0.0
211	3	119.0	0.0	0.0	0.0
304	3	139.0	0.0	0.0	0.0
309	2	87.0	0.0	0.0	0.0
402	2	116.0	0.0	0.0	0.0
407	3	114.0	0.0	0.0	0.0
501	3	212.0	15.0	0.0	0.0
G04	3	123.0	0.0	50.0	0.0
G09	2	110.0	0.0	55.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
105	3	132.0	0.0	0.0	0.0
110	1	58.0	0.0	0.0	0.0
202	3	119.0	0.0	0.0	0.0
207	2	100.0	0.0	0.0	0.0
212	2	102.0	0.0	0.0	0.0
305	3	132.0	0.0	0.0	0.0
310	1	58.0	0.0	0.0	0.0
403	3	139.0	0.0	0.0	0.0
408	2	87.0	0.0	0.0	0.0
502	3	194.0	0.0	0.0	0.0
G05	3	132.0	0.0	72.0	0.0
G10	2	92.0	0.0	50.0	0.0

### Multi-dwelling houses

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
U01	3	182.0	0.0	256.0	0.0
U06	3	182.0	0.0	35.0	0.0
U11	3	182.0	0.0	35.0	0.0
U16	3	182.0	0.0	36.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
U02	3	182.0	0.0	35.0	0.0
U07	3	182.0	0.0	35.0	0.0
U12	3	182.0	0.0	35.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
U03	3	182.0	0.0	35.0	0.0
U08	3	182.0	0.0	35.0	0.0
U13	3	182.0	0.0	35.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
U04	3	182.0	0.0	35.0	0.0
U09	3	182.0	0.0	35.0	0.0
U14	3	182.0	0.0	35.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m <sup>2</sup> )	Unconditioned floor area (m <sup>2</sup> )	Area of garden & lawn (m <sup>2</sup> )	Indigenous species (min area m <sup>2</sup> )
U05	3	182.0	0.0	35.0	0.0
U10	3	182.0	0.0	35.0	0.0
U15	3	182.0	0.0	35.0	0.0

## Description of project

The tables below describe the dwellings and common areas within the project

### Common areas of unit building - Building1

Common area	Floor area (m²)
Car park area (LB South)	2590.0
MSB room (LG South)	49.0
Community room (L4 South)	42.0
Plant room (LG South)	13.0
Hallway/lobby type (L2 South)	110.0
Hallway/lobby type (L5 South)	52.0

Common area	Floor area (m²)
Lift car (No.1)	-
Garbage rooms (LB South)	52.0
Pump room (LB South)	31.0
Ground floor lobby type (LG South)	158.0
Hallway/lobby type (L3 South)	110.0
Hallway/lobby type (LB South)	34.0

Common area	Floor area (m²)
Lift car (No.2)	-
Garbage room (L5 South)	8.0
Service room (LB South)	37.0
Hallway/lobby type (L1 South)	115.0
Hallway/lobby type (L4 South)	110.0

### Common areas of the development (non-building specific)

Common area	Floor area (m²)
Car park area (LG North)	1157.0

# Schedule of BASIX commitments

## 1. Commitments for Residential flat buildings - Building1

### (a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

### (b) Common areas and central systems/facilities

- (i) Water
- (ii) Energy

## 2. Commitments for multi-dwelling houses

### (a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

## 3. Commitments for single dwelling houses

## 4. Commitments for common areas and central systems/facilities for the development (non-building specific)

- (i) Water
- (ii) Energy

## Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

### 1. Commitments for Residential flat buildings - Building1

#### (a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.		✓	✓
(e) The applicant must install:			
(aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and		✓	✓
(bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.		✓	✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

	Fixtures					Appliances		Individual pool				Individual spa		
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	4 star (> 6 but <= 7.5 L/min)	4 star	4 star	4 star	no	-	-	-	-	-	-	-	-	-

	Alternative water source							
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
None	-	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below; (bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and (cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.		✓ ✓ ✓	✓
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".		✓	

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	gas instantaneous 6 star	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
501	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	1	yes
G02	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	2 (dedicated)	1 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	2	no
104, 204, 304, 403	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	yes
110, 111, 112, 210, 310, 409	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	1 (dedicated)	1 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	no
102, 202, 211, 302, 311, 410, 502	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	1	no
103, 107, 203, 207, 303, 307, 402, 406, G03, G07, G08	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	2 (dedicated)	1 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	no

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
101, 109, 113, 201, 209, 212, 301, 309, 312, 401, 408, 411, G01, G09, G10	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	2 (dedicated)	1 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	yes
All other dwellings	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	no

Dwelling no.	Individual pool		Individual spa		Appliances & other efficiency measures							
	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	electric cooktop & electric oven	-	yes	-	-	-	yes	no

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	✓		
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.		✓	
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Where there is an in-slab heating or cooling system, the applicant must:  (aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or (bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m <sup>2</sup> /yr)	Area adjusted cooling load (in mJ/m <sup>2</sup> /yr)
101	151.0	4.0
102	148.3	5.9
103	149.6	2.6
104	211.4	7.0

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m²/yr)	Area adjusted cooling load (in mJ/m²/yr)
105	145.6	2.0
106	140.9	1.9
107	162.0	2.9
108	199.8	3.8
109	228.8	5.5
110	218.3	5.0
111	239.3	4.5
112	267.2	4.2
113	159.8	5.8
201	154.9	4.0
202	152.3	5.5
203	152.9	2.4
204	216.3	6.7
205	149.3	1.9
206	144.5	1.9
207	165.3	2.8
208	204.1	3.7
209	205.2	5.4
210	209.8	5.2
211	161.4	3.9
212	166.6	4.8
301	179.3	3.8
302	205.7	5.1
303	171.6	2.0
304	243.5	5.7
305	170.1	1.9
306	165.2	1.7

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m²/yr)	Area adjusted cooling load (in mJ/m²/yr)
307	186.8	2.4
308	228.2	3.4
309	224.5	5.2
310	229.6	5.1
311	166.4	3.1
312	189.4	4.3
401	210.2	5.4
402	195.0	4.4
403	268.3	7.9
404	190.4	2.6
405	176.5	2.0
406	193.7	3.3
407	236.5	2.9
408	235.5	6.9
409	231.8	5.0
410	186.4	4.5
411	201.6	5.0
501	204.9	6.0
502	260.5	8.0
G01	208.5	3.6
G02	198.7	3.9
G03	202.0	0.9
G04	206.6	5.1
G05	196.5	1.0
G06	189.2	1.1
G07	207.6	1.3
G08	239.2	3.6

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m <sup>2</sup> /yr)	Area adjusted cooling load (in mJ/m <sup>2</sup> /yr)
G09	214.7	1.5
All other dwellings	187.4	7.8

**(b) Common areas and central systems/facilities**

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	4 star	4 star	no common laundry facility

Central systems	Size	Configuration	Connection (to allow for...)
Central water tank - rainwater or stormwater (No. 1)	5000.0	To collect run-off from at least: - 1000.0 square metres of roof area of buildings in the development - 0.0 square metres of impervious area in the development - 0.0 square metres of garden/lawn area in the development - 0.0 square metres of planter box area in the development (excluding, in each case, any area which drains to, or supplies, any other alternative water supply system).	- irrigation of 100.0 square metres of common landscaped area on the site

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Car park area (LB South)	ventilation (supply + exhaust)	carbon monoxide monitor + VSD fan	light-emitting diode	zoned switching with motion sensor	No
Lift car (No.1)	-	-	light-emitting diode	connected to lift call button	No
Lift car (No.2)	-	-	light-emitting diode	connected to lift call button	No
MSB room (LG South)	ventilation exhaust only	thermostatically controlled	light-emitting diode	manual on / manual off	No
Garbage rooms (LB South)	ventilation exhaust only	-	light-emitting diode	motion sensors	No
Garbage room (L5 South)	ventilation exhaust only	-	light-emitting diode	motion sensors	No
Community room (L4 South)	air conditioning system	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No
Pump room (LB South)	ventilation exhaust only	thermostatically controlled	light-emitting diode	manual on / manual off	No
Service room (LB South)	ventilation exhaust only	thermostatically controlled	light-emitting diode	manual on / manual off	No
Plant room (LG South)	ventilation exhaust only	thermostatically controlled	light-emitting diode	manual on / manual off	No
Ground floor lobby type (LG South)	no mechanical ventilation	-	light-emitting diode	daylight sensor and motion sensor	No
Hallway/lobby type (L1 South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No
Hallway/lobby type (L2 South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No

	Common area ventilation system		Common area lighting		
Common area	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Hallway/lobby type (L3 South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No
Hallway/lobby type (L4 South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No
Hallway/lobby type (L5 South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	daylight sensor and motion sensor	No
Hallway/lobby type (LB South)	ventilation (supply + exhaust)	time clock or BMS controlled	light-emitting diode	motion sensors	No

Central energy systems	Type	Specification
Lift (No. 1)	gearless traction with V V V F motor	Number of levels (including basement): 6
Lift (No. 2)	gearless traction with V V V F motor	Number of levels (including basement): 7

## 2. Commitments for multi-dwelling houses

### (a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.		✓	✓
(e) The applicant must install: (aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and (bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.		✓ ✓	✓ ✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

	Fixtures					Appliances		Individual pool				Individual spa		
Dwelling no.	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	4 star (> 6 but <= 7.5 L/min)	4 star	4 star	4 star	no	-	-	-	-	-	-	-	-	-

	Alternative water source							
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up
All dwellings	individual water tank (no. 1)	Tank size (min) 3000.0 litres	To collect run-off from at least: 100.0 square metres of roof area; 0.0 square metres of impervious area; 0.0 square metres of garden and lawn area; and 0.0 square metres of planter box area.	yes	yes	yes	no	no
None	-	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.	✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must: (aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and (bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.		✓ ✓	
(h) The applicant must install in the dwelling: (aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below; (bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and (cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.		✓ ✓ ✓	✓
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".		✓	
(j) The applicant must install the photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system.	✓	✓	✓

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	gas instantaneous 6 star	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
All dwellings	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3-phase airconditioning EER 3.0 - 3.5 (zoned)	3 (dedicated)	2 (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	yes (dedicated)	0	no

Dwelling no.	Individual pool		Individual spa		Appliances & other efficiency measures							
	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	electric cooktop & electric oven	-	yes	-	-	-	yes	no

Alternative energy	
Dwelling no.	Photovoltaic system (min rated electrical output in peak kW)
All dwellings	0.0

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.	✓		
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.		✓	
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Where there is an in-slab heating or cooling system, the applicant must:  (aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or (bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m <sup>2</sup> /yr)	Area adjusted cooling load (in mJ/m <sup>2</sup> /yr)
U01	219.6	14.6
U02	242.7	5.6
U05	241.0	6.3
U12	241.4	6.3
U13	241.3	6.3
U14	241.2	6.2
U15	244.1	6.3
U16	210.7	10.4

	Thermal loads	
Dwelling no.	Area adjusted heating load (in mJ/m <sup>2</sup> /yr)	Area adjusted cooling load (in mJ/m <sup>2</sup> /yr)
U03, U06	241.4	6.2
U04, U07	241.5	6.4
All other dwellings	241.5	6.3

	Construction of floors and walls				
Dwelling no.	Concrete slab on ground(m <sup>2</sup> )	Suspended floor with open subfloor (m <sup>2</sup> )	Suspended floor with enclosed subfloor (m <sup>2</sup> )	Suspended floor above garage (m <sup>2</sup> )	Primarily rammed earth or mudbrick walls
All dwellings	40	-	43	-	No

#### 4. Commitments for common areas and central systems/facilities for the development (non-building specific)

##### (b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	4 star	4 star	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

	Common area ventilation system		Common area lighting		
Common area	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Car park area (LG North)	ventilation (supply + exhaust)	carbon monoxide monitor + VSD fan	light-emitting diode	zoned switching with motion sensor	No

Central energy systems	Type	Specification
Alternative energy supply	Photovoltaic system	Rated electrical output (min): 76.0 peak kW

## Notes

1. In these commitments, "applicant" means the person carrying out the development.
2. The applicant must identify each dwelling, building and common area listed in this certificate, on the plans accompanying any development application, and on the plans and specifications accompanying the application for a construction certificate / complying development certificate, for the proposed development, using the same identifying letter or reference as is given to that dwelling, building or common area in this certificate.
3. This note applies if the proposed development involves the erection of a building for both residential and non-residential purposes (or the change of use of a building for both residential and non-residential purposes). Commitments in this certificate which are specified to apply to a "common area" of a building or the development, apply only to that part of the building or development to be used for residential purposes.
4. If this certificate lists a central system as a commitment for a dwelling or building, and that system will also service any other dwelling or building within the development, then that system need only be installed once (even if it is separately listed as a commitment for that other dwelling or building).
5. If a star or other rating is specified in a commitment, this is a minimum rating.
6. All alternative water systems to be installed under these commitments (if any), must be installed in accordance with the requirements of all applicable regulatory authorities. NOTE: NSW Health does not recommend that stormwater, recycled water or private dam water be used to irrigate edible plants which are consumed raw, or that rainwater be used for human consumption in areas with potable water supply.

## Legend

1. Commitments identified with a "✔" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
2. Commitments identified with a "✔" in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
3. Commitments identified with a "✔" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled. (Note: a certifying authority must not issue an occupation certificate (either interim or final) for a building listed in this certificate, or for any part of such a building, unless it is satisfied that each of the commitments whose fulfilment it is required to monitor in relation to the building or part, has been fulfilled).

## Annexure J

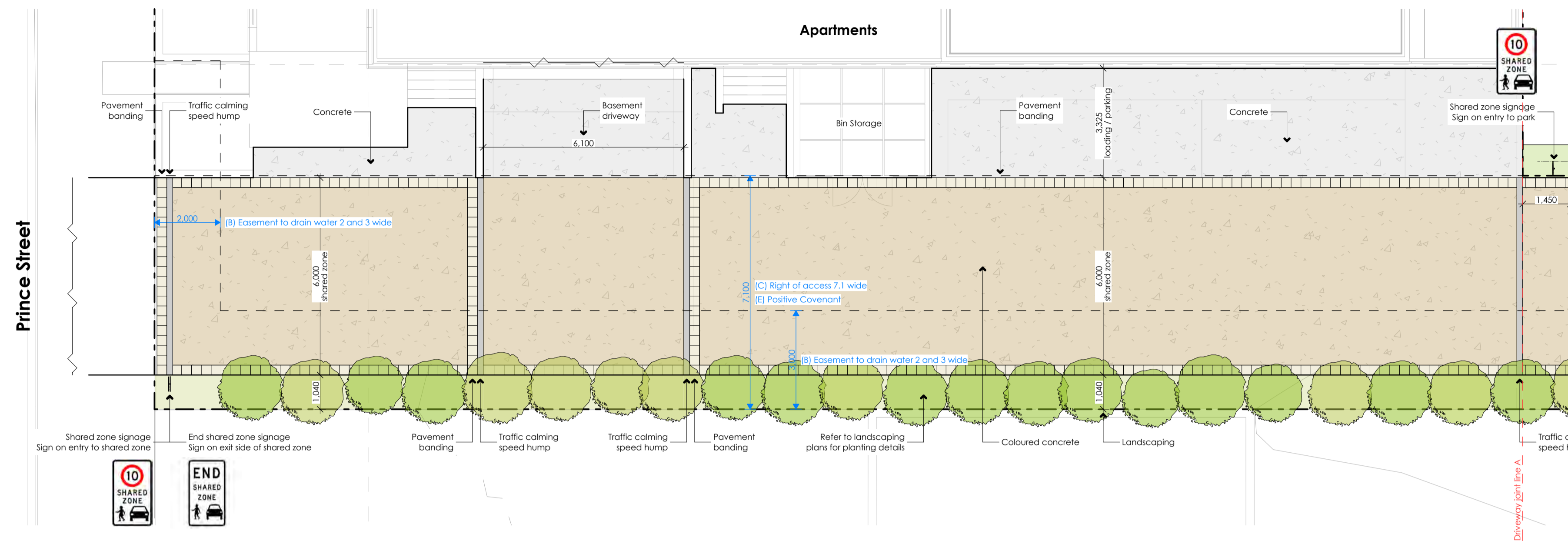
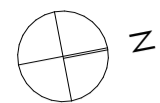
# Prince Street Development - Shared Zone Driveway



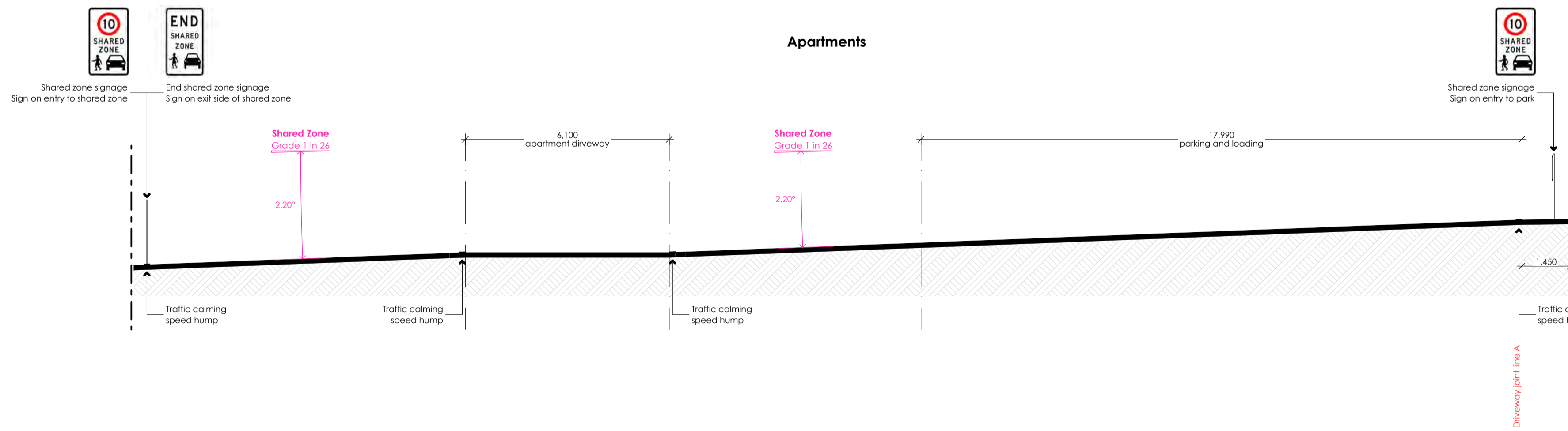
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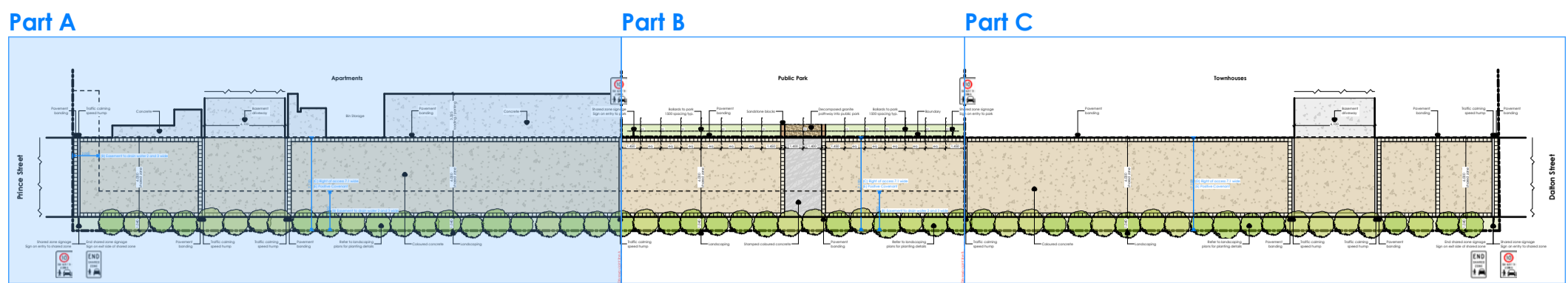
# MAAS



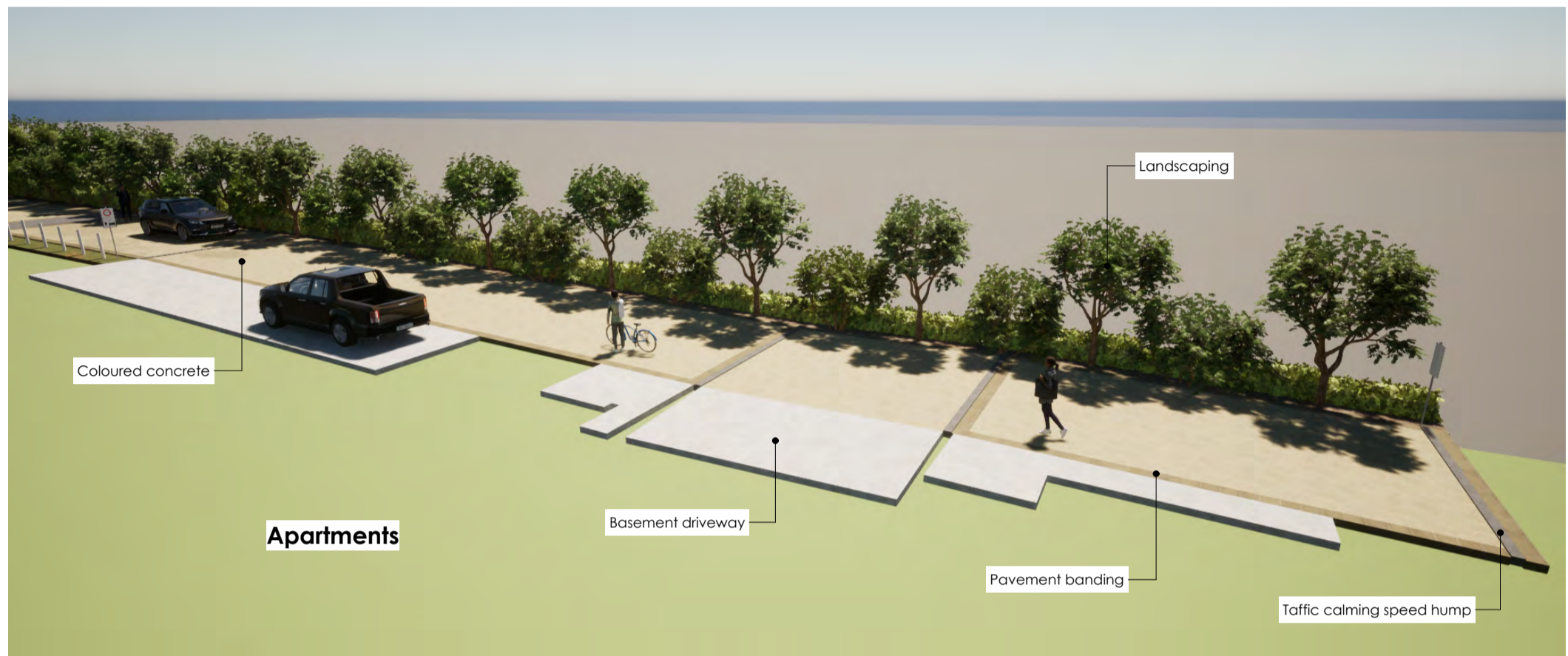
**Part A Driveway Plan**  
Prince Street to Public Park (Passing Apartments)



**Part A Driveway Section Plan**  
Prince Street to Public Park (Passing Apartments)



**Overall Shared Zone Map**



**Apartment Interface 3D**



**Apartment Interface 3D**

**Finishes Legend**

- Landscaping / Grass
- Concrete
- Coloured Concrete
- Decomposed granite
- Stamped Coloured Concrete
- Standstone Blocks
- Pavement Banding
- Traffic Calming Speed Hump

01	Council Issue	8/03/2023
rev	description	date

**Prince Street Development**

103 Prince Street  
Orange NSW 2800

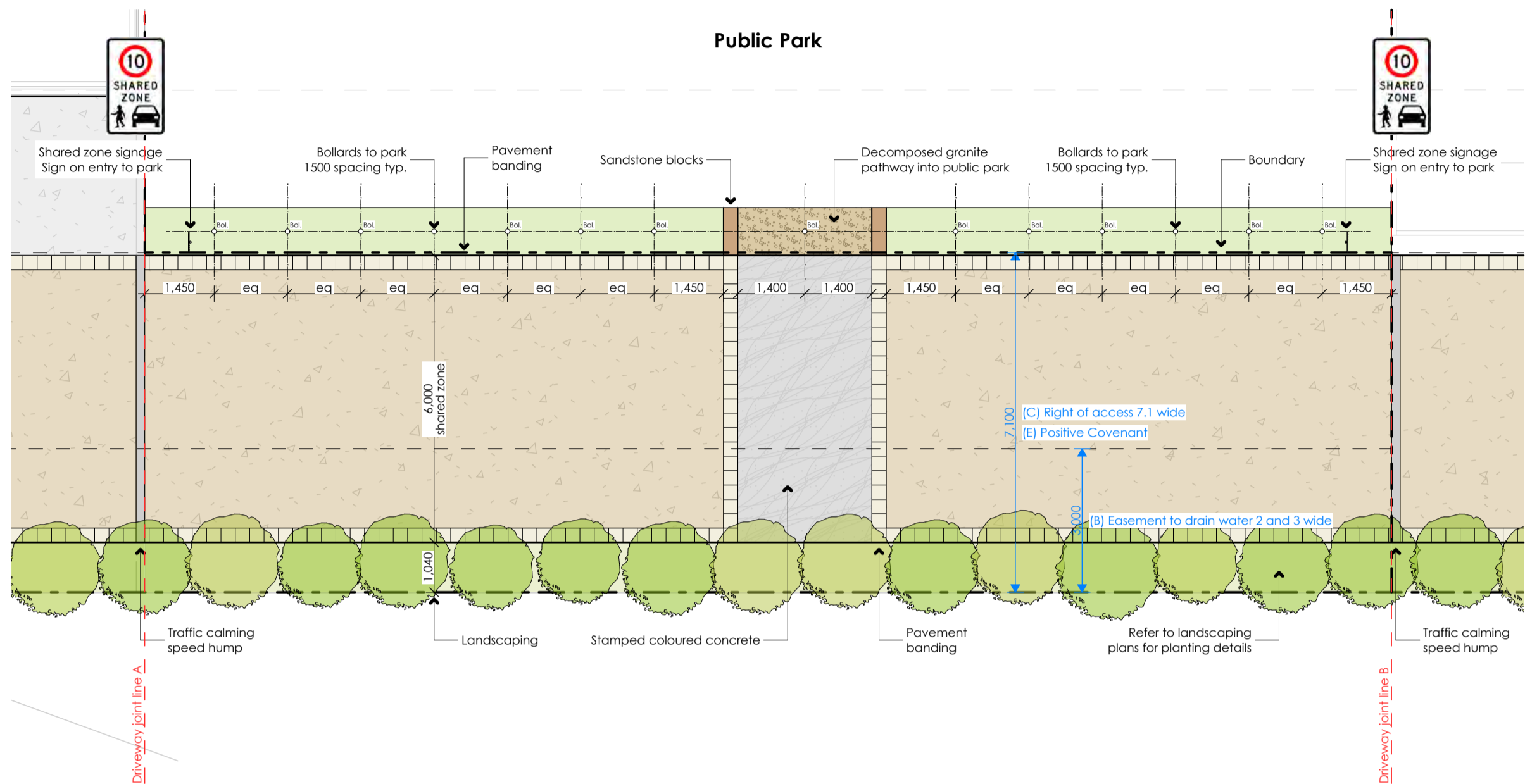
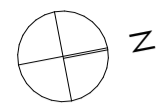
**Shared Zone Driveway | Part A**

project no.	22037	dwg no.	DR-01
date:	08/03/2023	scale:	1:100 @ A1
drawn:	KB	rev no.	01

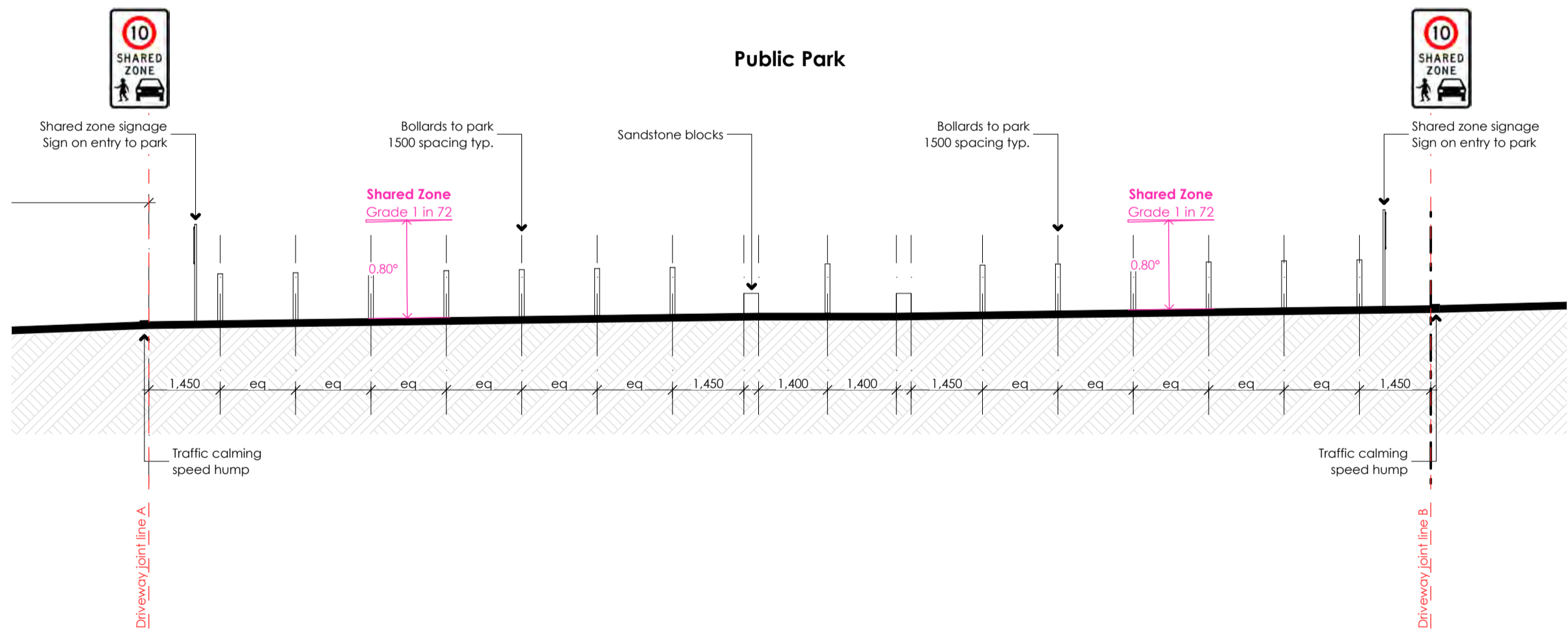
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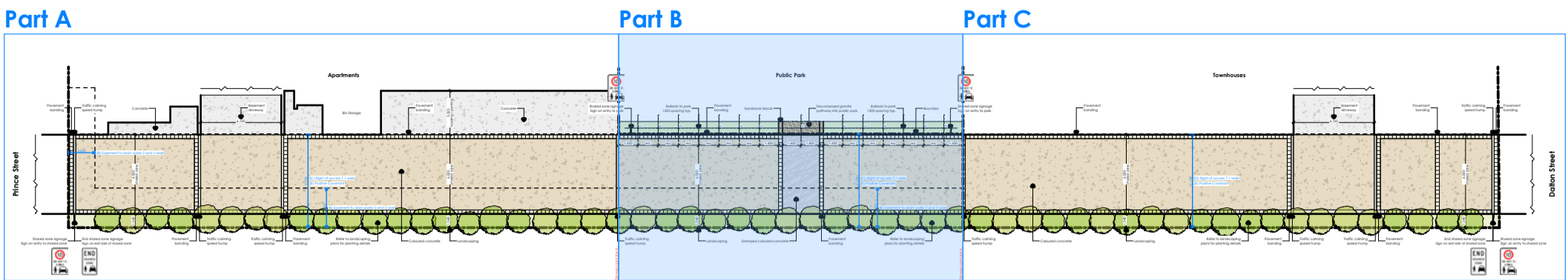
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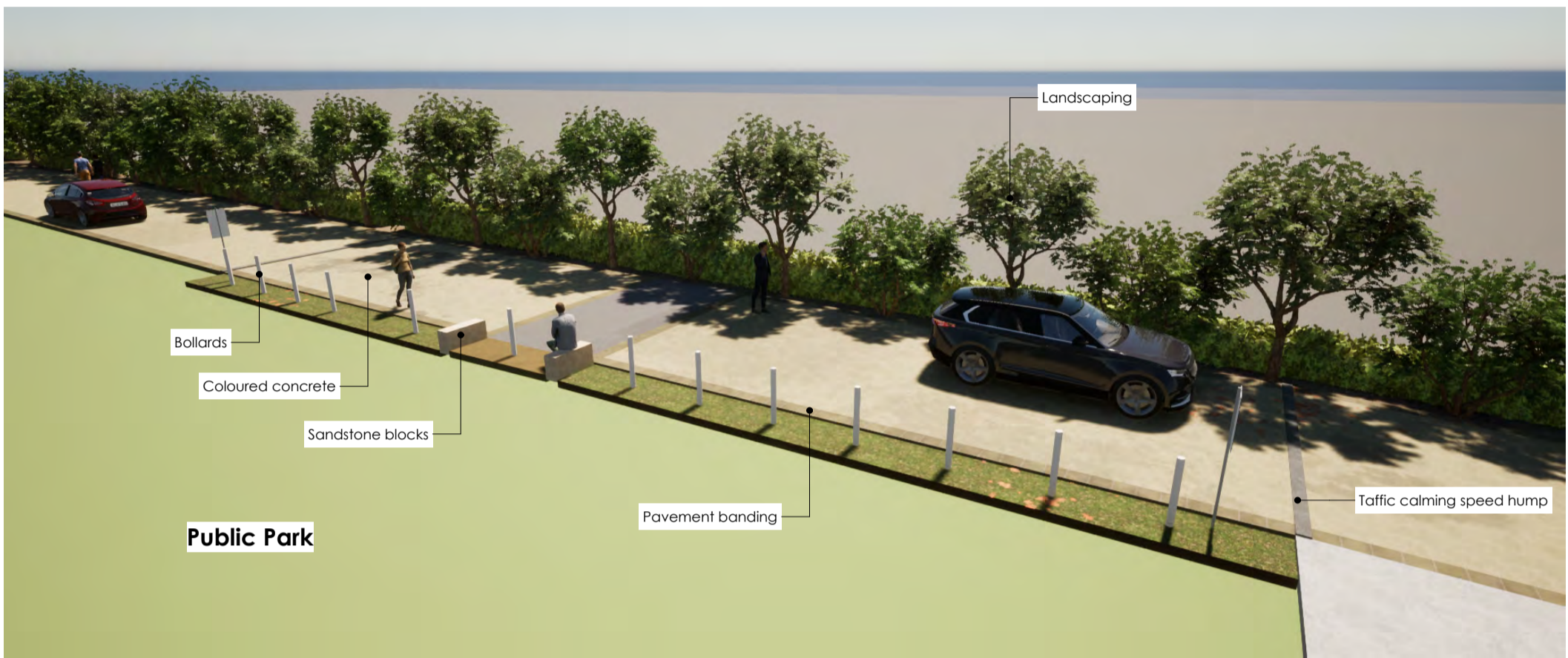
**Part B Driveway Plan**  
Prince Street appartments through Public Park to Dalton Street Townhouses



**Part B Driveway Section Plan**  
Prince Street to Public Park (Passing Apartments)



**Overall Shared Zone Map**



**Public Park Interface 3D**



**Public Park Interface 3D**

**Finishes Legend**

- Landscaping / Grass
- Concrete
- Coloured Concrete
- Decomposed granite
- Stamped Coloured Concrete
- Standstone Blocks
- Pavement Banding
- Traffic Calming Speed Hump

01	Council Issue	8/03/2023
rev	description	date

**Prince Street Development**

103 Prince Street  
Orange NSW 2800

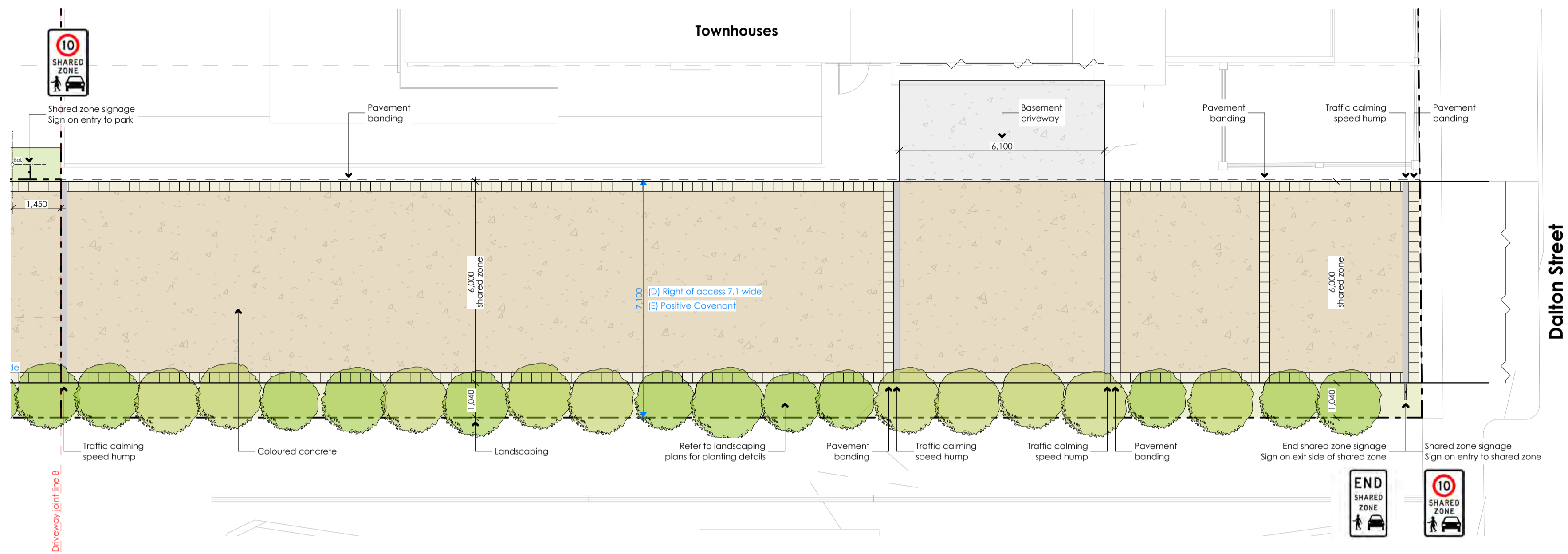
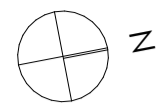
**Shared Zone Driveway | Part B**

project no.	22037	dwg no.	DR-02
date:	08/03/2023	scale:	1:100 @ A1
drawn:	KB	rev no.	01

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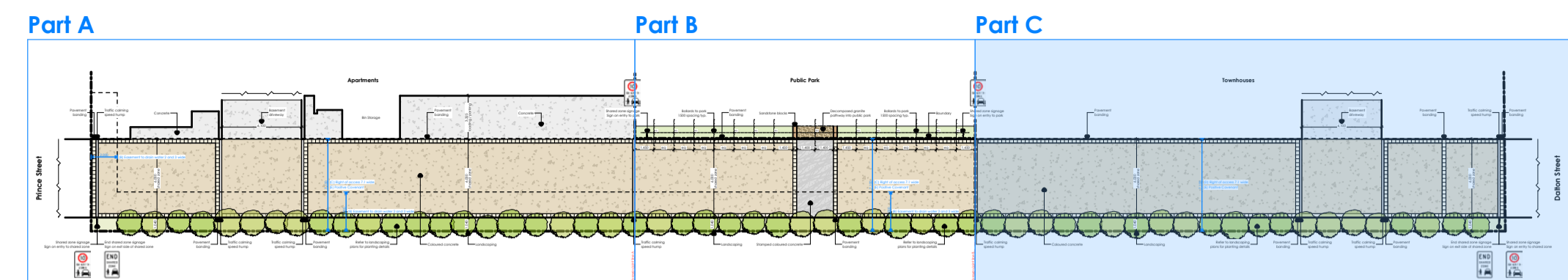
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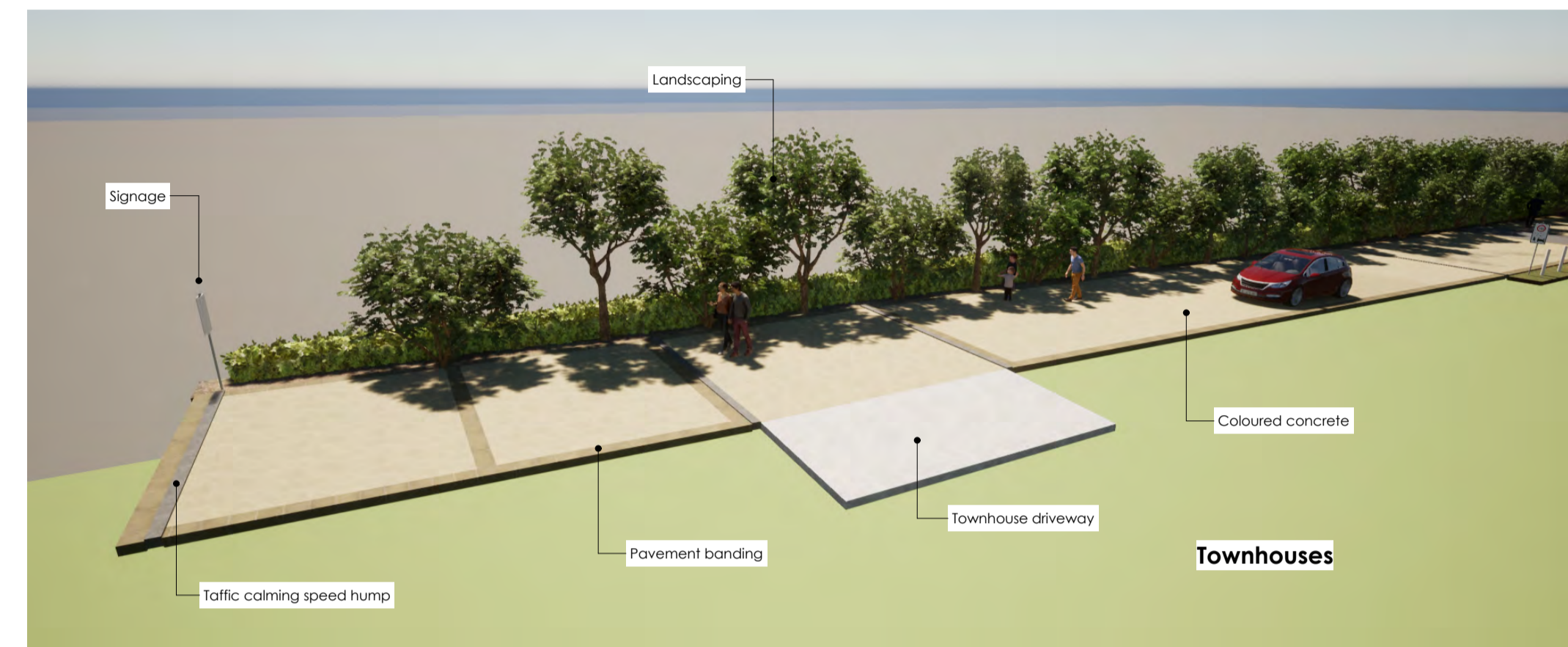
**Part C Driveway Plan**  
Public Park to Dalton Street (Passing Townhouses)



**Part C Driveway Section Plan**  
Prince Street to Public Park (Passing Apartments)



**Overall Shared Zone Map**



**Townhouses Interface 3D**



**Townhouses Interface 3D**

#### Finishes Legend

- Landscaping / Grass
- Concrete
- Coloured Concrete
- Decomposed granite
- Stamped Coloured Concrete
- Standstone Blocks
- Pavement Banding
- Traffic Calming Speed Hump

01	Council Issue	8/03/2023
rev	description	date

#### Prince Street Development

103 Prince Street  
Orange NSW 2800

#### Shared Zone Driveway | Part C

project no.	22037	dwg no.	DR-03
date:	08/03/2023	scale:	1:100 @ A1
drawn:	KB	rev no.	01

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# MAAS

## Annexure K

4<sup>th</sup> April 2023

Orange City Council  
PO BOX 35  
ORANGE NSW 2800

**Attn: Paul Johnson**  
**Voluntary Planning Agreement – Amendments in Support of DA98/2022(1) PAN-205916**  
**LOT 501 DP 1249083 – 103 PRINCE ST, ORANGE**

Dear Paul

Further to Council's correspondence dated 24<sup>th</sup> February 2023 and Maas Group's responding documentation lodged on the 16<sup>th</sup> March 2023 it is acknowledged and agreed that the currently endorsed Voluntary Planning Agreement (VPA) will require amendment to align with the abovementioned documentation.

Variation to the draft plan of subdivision triggers the VPA to be amended in line with the latest subdivision update and Maas will undertake the amendments to the VPA as required.

If you have any questions, please do not hesitate to contact the undersigned via 0401 518 650.

Kind Regards,

*H. Saunders*  
Helen Saunders  
Maas Group