



## ORANGE CITY COUNCIL

Development Application No **DA 259/2020(1)**

NA20/

Container PR7567

### 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: Orange City Council  
Applicant Address: Attention Mr S Maunder  
Director, Community Recreation and Cultural Services  
PO Box 35  
ORANGE NSW 2800  
Owner's Name: Crown  
Land to Be Developed: Lots 7 and 8 DP 820905 – March and Peisley Streets, Orange  
Proposed Development: Mixed Use Development (community facility (conservatorium) and information and education facility (planetarium))

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#### Building Code of Australia building classification:

To be determined by the PC

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#### Determination made under Section 4.16

Made On: To be advised  
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

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#### Consent to Operate From: Consent to Lapse On:

To be advised  
To be advised

### 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) **Drawings by Brewster Horth Architects**  
Drawing Nos. A000, A100, A101, A110, A111, A112, A200, A201, A202, A203, A204, A205  
(12 sheets)  
**Landscape Plan by Taylor Brammer**  
Drawings Nos. LC01 – 02 Revision A dated 13 November 2017 (2 sheets)

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

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

<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.

<b>PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE</b>
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- (4) An amended landscape plan shall be submitted to Council for the approval of the Manager City Presentation.
- The plan shall incorporate the following amendments:
- Retention of Tree 30 *Taxodium distichum* (Swamp cypress)
  - Dialogue Point 5: species selection to the planetarium dome to be *Vitis vinifera* (Ornamental Grape) or *Parthenocissus tricuspidata* (Boston Ivy).
  - Dialogue Point 9: deletion of bulb plantings to grassed area
  - Dialogue Point 15: thinning of maple Trees 14-18 (*Acer saccharum*/ *Acer saccharinum*)
  - Dialogue Point 17: an evergreen screen to the substation comprising *Magnolia* 'Teddy Bear'
  - Deletion of following species from Indicative Plant List:  
Trees: *Pyrus calleryana* 'Chanticlear'. Replace with more colour autumn foliage species  
Shrubs: Azalea, Camellia and Rhododendron  
Groundcovers: *Grevillea* 'Bronze Rambler', *Myoporum* and *Nandina domestic* 'Nana'  
Climbers: *Trachelospermum jasminoides*
  - A street tree in the March Street road formation at the site frontage (location and species to be determined by Manager City Presentation).
- (5) The colour of the glazing fins on the March Street elevation shall be amended to a lighter colour, reflecting finishes of the built form in the streetscape. Details shall be provided on the Construction Certificate drawings for the approval of the Manager Development Assessment.
- (6) 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.
- (7) Detailed plans and specifications are to be provided specifying the proposed fitout of the food preparation and storage areas in accordance with the requirements of Australian Standard 4674-2004 "Design and construction and fitout of food premises" and Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code.

- (8) 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.
- (9) Prior to the issue of a Construction Certificate the proponent shall develop a Construction Environmental Management Plan (CEMP) to ensure the management measures identified in the Remediation Action Plan dated 2 May 2018 (ref. 2016-GD032-RP3-draft) prepared by Ground Doctor Pty Ltd and amended by UPSS Decommissioning Report dated 8 August 2018 (ref. 2016-GD032-RP4-final) prepared by Ground Doctor Pty Ltd, are implemented in relation to contamination of the soil containing TRH / PAH; BTEX; naphthalene and lead, including excavation of contaminated UPSS soil, vapour management, and soil disposal.
- (10) Engineering plans providing complete details of the proposed driveway and car parking areas are to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials and proposed drainage works and are to be in accordance with Orange City Council Development and Subdivision Code.
- (11) A water and soil erosion control plan 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.
- (12) 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 the 100 year ARI frequency, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments. Where appropriate, the spillway design capacity is to be determined in accordance with the requirements of the Dam Safety Committee.

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

- (13) The existing lot shall be provided with a concrete interlot stormwater drainage pit connected to the piped stormwater network. Engineering plans for this drainage system are to be approved by Orange City Council prior to the issuing of a Construction Certificate.
- (14) A 150mm-diameter sewer main is to be constructed from Council's existing main to serve the proposed development. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.
- (15) **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 9.20 ETs for water supply headworks and 14.49 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.

- (16) 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.
- (17) Prior to the issue of a Construction Certificate the plans shall be amended to indicate a minimum ground floor level of 860.260m AHD.
- (18) The existing stormwater channel that crosses the site is to be accurately located. Where the channel structure is positioned beneath or adjacent to any proposed building work, measures are to be taken to prevent any construction or building loads being applied to the stormwater channel structure. Structural engineer's details of any adjacent structures shall be provided to Orange City Council for approval prior to the issue of a Construction Certificate.

The stormwater channel shall be fenced off during construction. Plans shall be prepared to indicate the extent of the no-go zone fencing and signage. The fencing and signage shall be installed prior to the commencement of works and maintained for the full duration of the project.

#### **PRIOR TO WORKS COMMENCING**

- (19) 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.
- (20) 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.
- (21) Soil erosion control measures shall be implemented on the site.

#### **DURING CONSTRUCTION/SITEWORKS**

- (22) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (23) A Registered Surveyor's Certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (24) 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.
- (25) The development shall be undertaken in accordance with the requirements of the Remediation Action Plan, dated 2 May 2018 (ref. 2016-GD032-RP3-draft) prepared by Ground Doctor Pty Ltd; as amended by the UPSS Decommissioning Report, dated 8 August 2018 (ref. 2016-GD032-RP4-Final) prepared by Ground Doctor Pty Ltd.
- (26) 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.

- (27) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (28) 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.
- (29) All driveway and parking areas are to be sealed with bitumen, hot mix or concrete and are to be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and be in accordance with the Orange City Council Development and Subdivision Code.
- (30) A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (31) The existing kerb and gutter layback that is not proposed to be used 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.
- (32) The existing stormwater channel that crosses the site is to be accurately located. Where the channel structure is positioned adjacent to any proposed building work, measures are to be taken in accordance with Orange City Council Policy - Building over and/or adjacent to sewers ST009.
- (33) A concrete footpath, a minimum of 1.2 metres wide, shall be constructed for the full frontage of March Street.
- Construction work is to be to the requirements and standards of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (34) A no stopping sign and 45° angle parking sign shall be installed on the March Street frontage adjacent to the Peisley Street intersection.

<b>PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE</b>
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- (35) Landscaping shall be installed in accordance with the approved and amended plans and shall be permanently maintained to the satisfaction of Council's Manager City Presentation.
- (36) Closed circuit television shall be installed to all public areas and supported by suitable lighting.
- (37) 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.
- (38) 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.
- (39) 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 either an interim or a final Occupation Certificate.

- (40) Prior to issue of an Occupation Certificate a validation report is to be provided to Council in relation to all remediation work undertaken in accordance with the Remediation Action Plan dated 2 May 2018 (ref. 2016-GD032-RP3-draft) and amended by UPSS Decommissioning Report dated 8 August 2018 (ref. 2016-GD032-RP4-final) prepared by Ground Doctor Pty Ltd. The validation report is to be prepared in accordance with NSW EPA Guidelines for Consultants Reporting on Contaminated sites (2011) and Guidelines for the NSW Site Auditor Scheme (2017).
- (41) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater 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.
- (42) 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.
- (43) 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.
- (44) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

<b>MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT</b>
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- (45) 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*.
- (46) A separate Development Application shall be submitted to and approved by Council prior to the erection of any advertising structures or signs of a type that do not meet the exempt development provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

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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

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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:**

To be advised