

2021/  
**REPORT TO**           **WESTERN REGIONAL PLANNING PANEL**

**FROM**               **K WALKER, SENIOR PLANNER, ORANGE CITY COUNCIL**

**DATE**               **24 MARCH 2021**

**ON**                   **DEVELOPMENT APPLICATION DA 494/2020(1)**  
**6 LYSTERFIELD ROAD, ORANGE**  
**HEALTH SERVICES FACILITY (HOSPITAL)**

**PR10006 - IC20/28391**

<b>Application Lodged</b>	18 December 2020
<b>Development Application No</b>	DA 494/2020(1)
<b>Plan No/s</b>	<p>Architectural plans prepared by PDT architects and numbered:</p> <p>A 00-01 Rev 1 dated 28.07.20;  A 01-02 Rev 1 dated 28.07.20;  A 01-03;  A 01-04 Rev 7 dated 07.10.20;  A 01-51 Rev 6 dated 28.07.20;  A 01-52 Rev 6 dated 28.07.20;  A 01-53 Rev 7 dated 07.10.20;  A 01-54 Rev 1 dated 28.07.20;  A 01-55 Rev 1 dated 28.07.20;  A 01-56 Rev 2 dated 07.10.20;  A 06-01 Rev 1 dated 28.07.20;  A 06-02 Rev 1 dated 28.07.20;  A 06-03 Rev 1 dated 28.07.20;  A 06-04 Rev 1 dated 28.07.20;  A 06-05 Rev 2 dated 07.10.20;  A 06-06 Rev 2 dated 07.10.20;  A 07-01 Rev 1 dated 07.10.20;</p> <p>And Landscaping plan, prepared by sala4D, numbered L-01, and dated 15/10/2020</p>
<b>Applicant / Owner</b>	<p>Lives Lived Well Limited  PO Box 332  SPRING HILL QLD 4004</p>
<b>Land Description</b>	Lot 177 DP 775277 - 6 Lysterfield Road, Orange
<b>Proposed Land Use</b>	Health Services Facility (hospital)
<b>Value of Proposed Development</b>	\$5,500,000

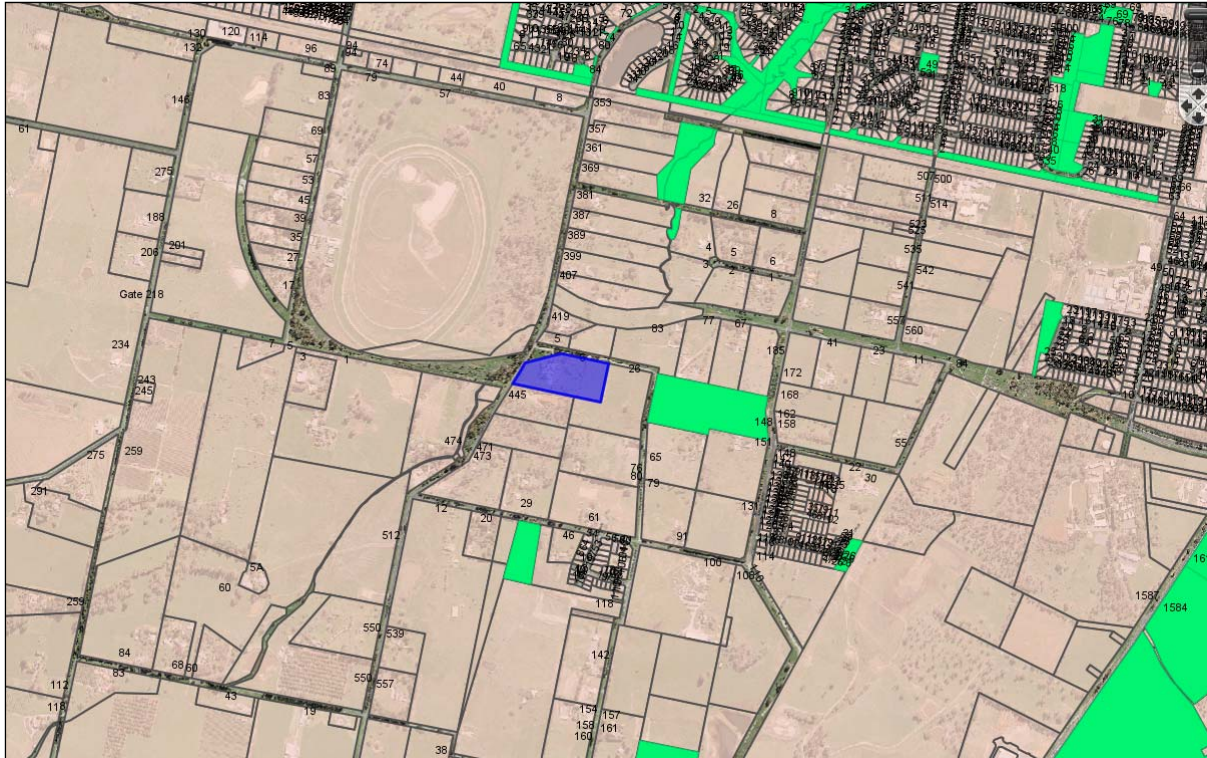
<b>Provisions of LEP 2011 (amended)</b>	Zones R2 Low Density Residential, R1 General Residential, and RE1 Public Recreation
<b>Details of Advertisement of Project</b>	Advertised in the Central Western Daily on Friday 15 January 2021 and neighbouring properties notified. Exhibition closed on Friday 22 January 2021. Two (2) submissions received.
<b>Recommendation</b>	Approval

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**EXECUTIVE SUMMARY**

This development application seeks consent for a Health Service Facility (Hospital) for the purposes of drug and alcohol rehabilitation, located at 6 Lysterfield Road, Orange (see locality at Figure 1).



**Figure 1 - locality plan**

The proposed involves the construction of four (4) new buildings, including one (1) administration building, one (1) withdrawal unit building, and two (2) rehabilitation unit buildings, connected by open and covered walkways (see Figure 2). A new car parking area to provide for 20 additional spaces on the site is proposed, as well as vehicle drop-off area and service vehicle area. Removal of approximately 22 trees is required to facilitate the development. New landscaping is proposed, including replacement trees, low level gardens, grassed areas, and concrete and gravel pathways.

The facility is to be used for residential treatment for drug and alcohol problems (2 beds), including withdrawal support, therapy, and mental health management. Treatment programs run between 6-12 weeks, where clients are admitted and stay onsite 24 hours a day for the duration of their treatment.

A group home is currently being run on the site for drug and alcohol rehabilitation (10 beds). It is proposed to run the existing and proposed facilities as separate services with regards to staffing, client/bed numbers etc, although administration and management support will be integrated.

900

PINNACLE ROAD

SITE BOUNDARY LINE

NEW DRIVEWAY AND CARPARKS

DROP OFF

SERVICE VEHICLES

EXISTING BUILDING ONE

TANKS

EXISTING DRIVEWAY

EXISTING SHED

EXISTING BUILDING TWO

NEW REHABILITATION UNITS 1

NEW REHABILITATION UNITS 2

NEW MULTI-PURPOSE/ADMIN. COUNCILLOR BUILDING

NEW WITHDRAWAL UNITS

NEW OPEN WALKWAY

NEW OPEN WALKWAY

NEW UNDERCOVER WALKWAY

11900

11900

13700

206

2057

SITE BOUNDARY LINE

The proposal comprises “Regionally Significant Development” under the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*, where the proposal involves a health services facility with a capital investment value over \$5 million. The applicant for the proposed development is Lives Lived Well. The Western Regional Planning Panel is the consent authority for Regionally Significant Development.

- Use of the land consistent with *State Environmental Planning Policy (Infrastructure) 2007* – Health Services Facilities.
- Development of the land consistent with *Shiralee Development Control Plan 2015*.
- The availability and adequacy of services to the site, including mains water, mains sewer, stormwater, and vehicular access.
- Interface with the future Southern Link/Feeder Road, which will be located nearby to the development site.
- The availability of car parking on the site to accommodate the parking demands associated with the proposal and existing use.
- The suitability of the proposal in the context of the surrounds, including desired future character of the area to be expected via *Shiralee Development Control Plan 2015*.
- The suitability of the proposed landscape design.
- The contribution of the development to the community.
- Noise impact assessment.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Executive Summary (cont)**

The proposal comprises “advertised development” pursuant to Council’s *Community Participation Plan 2019* (CPP). Public and written notice of the application was given, and at the completion of the exhibition period, two (2) submissions were received. One submission raises no objections, while the other raises issues in relation to security. These matters are discussed in greater detail in the main body of this report.

As outlined in this report, the proposed development is considered to reasonably satisfy the local and State planning controls that apply to the subject land and particular landuse. Impacts of the development will be within acceptable limit, subject to mitigation conditions. Approval of the application is recommended.

**RECOMMENDATION**

**That the Western Regional Planning Panel consents to development application DA 494/2020(1) for *Health Services Facility (Hospital)* at Lot 177 DP 775277 – 6 Lysterfield Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.**

**FURTHER CONSIDERATIONS**

*Shiralee Development Control Plan 2015* (hereafter referred to as the ‘Shiralee DCP’) and Master Plan anticipates 12 additional residential lots to be developed on the subject land in the future, which would require the payment of development contributions, as well as water and sewer headworks contributions. The proposed hospital does not necessitate the payment of development contributions, which are only payable for new residential development. The proposed development does not preclude future development of these additional lots, where the proposed hospital is located on a different part of the site.

Water and sewer headworks contributions are payable under Section 64 of the *Local Government Act 1993*, which seek to recover part of the infrastructure costs incurred in servicing new development or additions and changes to existing development. It is noted that this does not cover the costs of the developer connecting into and/or extending the existing infrastructure, which is in addition to the contributions payable. This matter is discussed in greater detail in the main body of this report (refer to ‘Development Contributions’ section).

Overall, consideration has been given to the recommendation’s impact on Council’s service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

**THE PROPOSAL**

Proposed works include:

- Construction of four (4) new buildings, including one (1) administration building (709m<sup>2</sup>), one(1) withdrawal unit building (372m<sup>2</sup>), and two (2) rehabilitation unit buildings (323m<sup>2</sup> each), connected by open and covered walkways (see Figure 2). Building materials include brick, Colorbond sheeting, Colorbond roofing, and aluminium framed windows and doors (see Figure 3).



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**The Proposal (cont)**

- An extended driveway and new car parking area to provide for 20 additional spaces on the site (increasing the total number of spaces onsite to 36) as well as vehicle drop-off area and service vehicle area (see Figure 2).
- Removal of approximately 22 trees (predominately fruit trees and introduced species).
- New landscaping including replacement trees, low level gardens, grassed areas, and concrete and gravel pathways (see Figures 2 and 3).



**Figure 3 - artist's impression of proposed buildings, walkways and landscaping  
(from submitted drawings)**

The proposed buildings comprise 29 beds (increasing the total number of beds onsite to 39), and associated facilities including bathrooms, nurse's station, laundry, TV/sunrooms, breakout spaces etc. The administration building includes reception with waiting room, administration offices, staff amenities, dining room and kitchen, common rooms, consultation rooms, and bathrooms.

The facility is to be used for residential treatment for drug and alcohol problems, including:

- withdrawal support with care from registered nurses (similar to hospital inpatients);
- skill-based drug and alcohol individual and group therapies;
- mental health management where required;
- family and relationship support; including accessing specialist child services, domestic violence support, parenting skills etc;
- life and social skill support; and
- group therapies such as art, music, yoga, physical fitness, community outings etc.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**The Proposal (cont)**

Treatment programs typically run between 6-12 weeks, where clients are admitted to stay onsite 24 hours a day for the duration of their treatment. Treatment periods can be extended where required. It is proposed that four new clients will arrive at the site each week, while four existing clients will depart. Clients will typically start in the withdrawal unit for about one week, and then move on to the rehabilitation units for their 6-12 week program. Clients are not permitted to bring their own vehicles to the site, where the facility provides pick-up and drop-off services.

It is proposed to employ 16 full-time equivalent staff (in addition to the existing ten staff members), and healthcare workers will include registered nurses, psychologists, general practitioners, and other allied health staff. The car parking to be provided on the site is predominately for facility vehicles and staff, with minimal visitors. Food delivery, supplies, and waste collection will be engaged by private contractors. All laundry will be carried out on the site.

A group home is currently being run on the site for drug and alcohol rehabilitation (10 beds, 10 staff, 16 car parking spaces). It is proposed to run the existing and proposed facilities as separate services with regards to staffing, client/bed numbers etc; although administration and management support will be integrated. It is likely that there will be one point for deliveries and servicing for both the existing and proposed components.

It is proposed to utilise existing water and sewerage disposal systems on-site (i.e. bore, tanks, septic, etc.), however no details of these have been provided with the application.

**MATTERS FOR CONSIDERATION****ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979****Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Section 1.7 of the EP&A Act identifies that Part 7 of the *Biodiversity Conservation Act 2016* (BC Act) and Part 7A of the *Fisheries Management Act 1994* have effect in connection with terrestrial and aquatic environments. There are four triggers known to insert a development into the Biodiversity Offset Scheme (i.e. the need for a BDAR to be submitted with a DA):

- Trigger 1: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017);
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016);
- Trigger 4: development proposed to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016).

With regards to Triggers 1 and 4, the subject land is not mapped on the NSW Biodiversity Values Map, nor is the land within an Area of Outstanding Beauty.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Section 1.7 (cont)**

With regards to Triggers 2 and 3, part of the land is mapped on the *Orange Local Environmental Plan 2011* (LEP) Terrestrial Biodiversity Map as having “High Biodiversity Sensitivity” (see Figure 4). The proposal involves the clearing of some 22 trees from the subject land with an approximate area of 1,000m<sup>2</sup>. Most of the trees to be removed are fruit trees and introduced species. The native trees to be removed are near the southern boundary of the site, and are within or near to the LEP mapped high biodiversity area.

The BC Regulations allow clearing of native vegetation up to 0.25ha (2,500m<sup>2</sup>) in this case (ie minimum lot size of land is less than 1ha), and the proposed removal of native vegetation is well below this threshold.



**Figure 4 - LEP Biodiversity map (layer shown by green polygon) (from NSW Planning Portal)**

The applicant has not provided any ecological reporting in relation to this matter to support this application, such as observed or likely habitat on the subject land or within the trees proposed to be removed, or the presence of threatened species on or near to the subject land. During site visits undertaken by Council staff, a number of parrots and lorikeets were seen and heard foraging in trees on the subject land. The Orange region is a known foraging habitat for “vulnerable” parrot and lorikeet species at this time of the year, which are found in remnant woodlands, box-gum trees and riparian woodlands, such as those on the adjacent land to the south and in the immediate surrounds.

It is considered that the removal of a few native trees along the boundary is unlikely to significantly impact on these bird species, or on potentially threatened species that may use the trees for habitat or foraging. The subject boundary trees proposed to be removed are likely to be planted natives rather than part of the adjacent original woodland, and they are also fragmented from the main cluster of woodland by way of the small adjacent quarry.



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Section 1.7 (cont)**

To avoid potential biodiversity impacts resulting from the removal of these trees, a condition of consent is recommended requiring that the felling of native trees be carried out by a suitably qualified arborist, trees with hollows be felled in stages with non-hollow bearing branches removed first, and that logs be retained onsite for a minimum of a week to allow fauna to move out of the hollows and into the adjacent woodland.

The proposed use of the site for a hospital is unlikely to have any significant biodiversity impacts, and the proposed planting scheme will ensure that there is replacement tree canopy for birds and other species. It is noted that the planting plan does not include many native trees or shrubs, and a condition of consent is recommended requiring the plan to be amended to substitute some of the introduced species.

Overall, subject to conditions of consent, the proposed development does not trigger the need for a BDAR to be carried out, and significant biodiversity impacts are unlikely.

**Section 4.15**

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

**PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)****Orange Local Environmental Plan 2011****Part 1 - Preliminary****Clause 1.2 - Aims of Plan**

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

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

The application is considered to be generally consistent with these aims as discussed in the main body of this report.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 1.7 - Mapping**

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

Land Zoning Map:	Land zoned R2 Low Density Residential, R1 General Residential, and RE1 Public Recreation (see Figure 5)
Lot Size Map:	Minimum Lot Sizes of 200m <sup>2</sup> and 5,000m <sup>2</sup>
Heritage Map:	Not a heritage item or conservation area, but located nearby Towac Park Racecourse which is a locally listed heritage item
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	High biodiversity sensitivity on part of the site (see Figure 4)
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse, but located nearby to a watercourse (see Figure 8)
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Part of land within a flood planning area (see Figure 7)

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

**Clause 1.9A - Suspension of Covenants, Agreements and Instruments**

This clause provides that covenants, agreements and other instruments which seek to restrict the carrying out of development do not apply with the following exceptions.

- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- (b) *to any relevant instrument under Section 13.4 of the Crown Land Management Act 2016, or*
- (c) *to any conservation agreement under the National Parks and Wildlife Act 1974, or*
- (d) *to any Trust agreement under the Nature Conservation Trust Act 2001, or*
- (e) *to any property vegetation plan under the Native Vegetation Act 2003, or*
- (f) *to any biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995, or*
- (g) *to any planning agreement under Subdivision 2 of Division 7.1 of the Environmental Planning and Assessment Act 1979.*

Council staff are not aware of the title of the subject property being affected by any of the above.

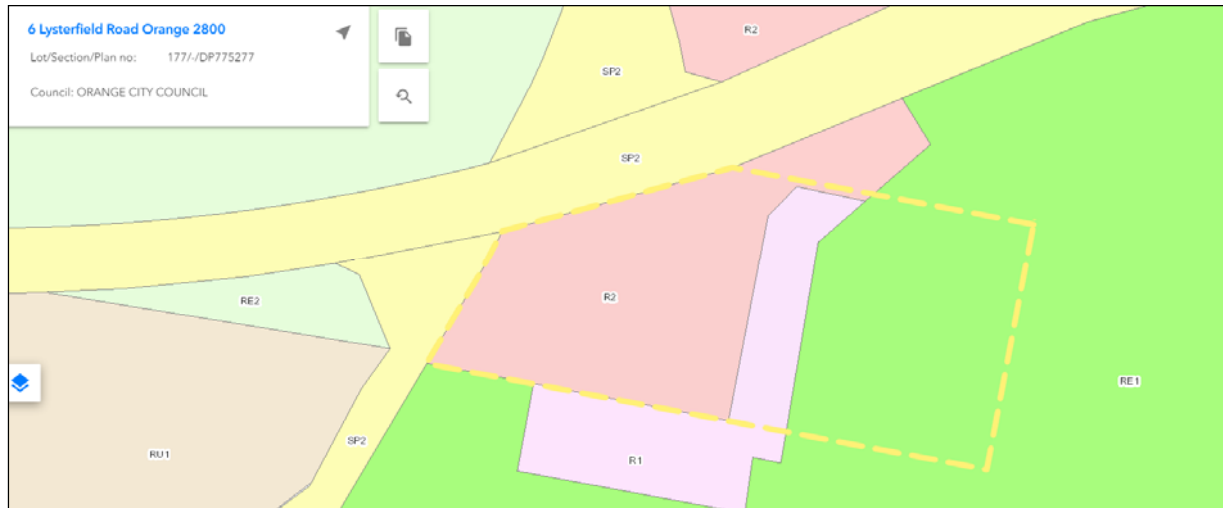
## 6 LYSTERFIELD ROAD, ORANGE

19 March 2021

### Part 2 - Permitted or Prohibited Development

#### Clause 2.1 - Land Use Zones

The subject site is located within the R2 Low Density Residential, R1 General Residential, and RE1 Public Recreation zones (see Figure 5). The proposed development will be carried out wholly within the R2 zoned part of the land.



**Figure 5 - LEP land zoning map (from NSW Planning Portal)**

The proposed development is defined as a 'Health Services Facility' under Orange LEP 2011 as follows:

***health services facility*** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

The proposed use is likely to involve a range of the sub-categories for a 'Health Services Facility', in particular community health service facilities, patient transport, and a hospital. Given the proposal involves medical care for in-patient clients (ie treatment with accommodation), and by health care/medical professionals, the proposal is predominately considered to be a 'Hospital', which includes such ancillary uses as proposed in this application.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 2.1 (cont)**

A 'Hospital' is defined in the LEP as follows:

***hospital** means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following—*

- (a) day surgery, day procedures or health consulting rooms,*
- (b) accommodation for nurses or other health care workers,*
- (c) accommodation for persons receiving health care or for their visitors,*
- (d) shops, kiosks, restaurants or cafes or take away food and drink premises,*
- (e) patient transport facilities, including helipads, ambulance facilities and car parking,*
- (f) educational purposes or any other health-related use,*
- (g) research purposes (whether or not carried out by hospital staff or health care workers or for commercial purposes),*
- (h) chapels,*
- (i) hospices,*
- (j) mortuaries.*

Hospitals are not permitted in the residential zones via the LEP, but are permitted with consent in "prescribed zones" pursuant to *State Environmental Planning Policy (Infrastructure) 2007* (hereafter referred to as the 'Infrastructure SEPP'). The R2 zone is a prescribed zone, and this application is seeking consent.

**Clause 2.3 - Zone Objectives and Land Use Table**

The objectives for land zoned R2 are as follows:

- *To provide for the housing needs of the community within a low 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.*
- *To ensure that development along the Southern Link Road has an alternative access.*

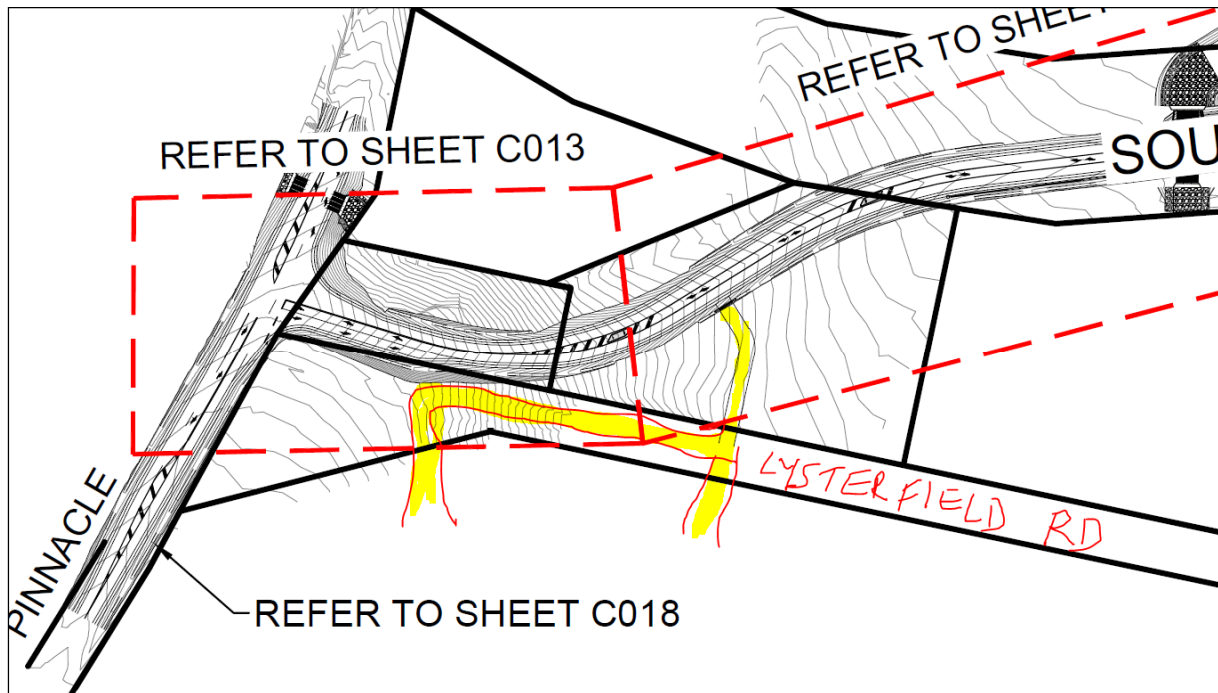
It is considered that the proposed hospital is not antipathetic to the objectives of the zone. The proposal will provide health services facilities for the Orange community and wider area. Given the location and nature of the proposed use, it is unlikely to be serviced by public transport, walking or cycling.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 2.3 (cont)**

The Southern Feeder Road (hereafter referred to as 'SFR', albeit referred to as the Southern Link Road in the LEP) is proposed to be located very near to the subject land (see Figure 6). It is intended that Lysterfield Road will join the SFR via a slip-road (see Figure 6), and the intersection of Lysterfield Road with Pinnacle Road will be closed off.



**Figure 6 - indicative SFR route showing possible intersections with Pinnacle and Lysterfield Roads**

It is noted that whilst the detailed design of the Pinnacle Road intersection has not been finalised as of yet, the Review of Environmental Factors (REF) for Stage 4 has been approved. Although the detail of how the subject site and road will interact with the SFR is not known at this stage, Council's Technical Services Division advise the future construction of a slip-road from Lysterfield Road onto the SFR will adequately service the development and ensure safe operation of the SFR and nearby intersections.

**Clause 2.7 - Demolition Requires Development Consent**

The proposal involves tree removal and the applicant is seeking consent. The demolition works proposed are unlikely to have any significant impacts on adjoining lands, the streetscape or the public realm. Conditions are recommended with regards to hours of work to maintain surrounding residential amenity, as well as methodology for native tree removal as previously discussed.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 4 - Principal Development Standards**

Not applicable to this development application.



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Part 5 - Miscellaneous Provisions****5.10 - Heritage Conservation**

The subject land is located nearby to a locally heritage listed item, being Towac Park Racecourse (LEP reference I63), which includes the timber grandstand, pavilion, and entry avenue. The heritage Statement of Significance notes *“The racecourse retains the character established by the perimeter windbreak planting, the long driveway, the track and the brick and timber Victorian grandstand and ticket booth”*.

LEP Clause 5.10(4) applies, which states in part:

- (4) ***Effect of proposed development on heritage significance*** *The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.*

It is considered that the proposed hospital development is unlikely to adversely impact on the heritage significance of this item for the following reasons:

- The subject land is physically removed from the item by way of some 100m (closest point), Pinnacle Road, Blackmans Swamp Creek and roadside vegetation;
- The significant features of the item, being the grandstand, pavilion, driveway avenue, and ticket booth, are over 700m away from the site on the far western side of the racecourse.
- The proposed hospital buildings will be set back around 12m from Pinnacle Road behind existing and proposed plantings.
- The racecourse windbreak plantings will not be affected by the proposal, and will remain in situ.

**Part 6 - Urban Release Area**

Not relevant to the application. The subject site is not located in an Urban Release Area.

**Part 7 - Additional Local Provisions****7.1 - Earthworks**

This clause establishes a range of matters that must be considered prior to granting development consent for any application involving earthworks, such as:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*
- (b) *the effect of the development on the likely future use or redevelopment of the land*
- (c) *the quality of the fill or the soil to be excavated, or both*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties*
- (e) *the source of any fill material and the destination of any excavated material*
- (f) *the likelihood of disturbing relics*
- (g) *the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area*

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**7.1 – Earthworks (cont)**

*(h) any measures proposed to minimise or mitigate the impacts referred to in paragraph (g).*

The earthworks proposed in the application are limited to the extent of cutting and filling required for the proposed buildings and plantings. The extent of disruption to the drainage of the site is considered to be minor and will not detrimentally affect adjoining properties or nearby waterways subject to soil erosion measures being implemented during the construction stages of the development.

The extent of the earthworks is unlikely to materially affect the potential future use or redevelopment of the site that may occur at the end of the proposed development's lifespan.

The site is not known to be contaminated and a condition of consent is recommended with regards to any unexpected find during works. Contamination is discussed in greater detail in the SEPP 55 assessment later in this report.

The site is not known to contain any Aboriginal, European or Archaeological relics. Previous known uses of the site do not suggest that any relics are likely to be uncovered. However, conditions of consent are recommended to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities and the proponent required to seek relevant permits to either destroy or relocate the findings.

In consideration of this clause, the proposal is considered to be acceptable subject to the conditions of consent discussed above.

**7.2 - Flood Planning**

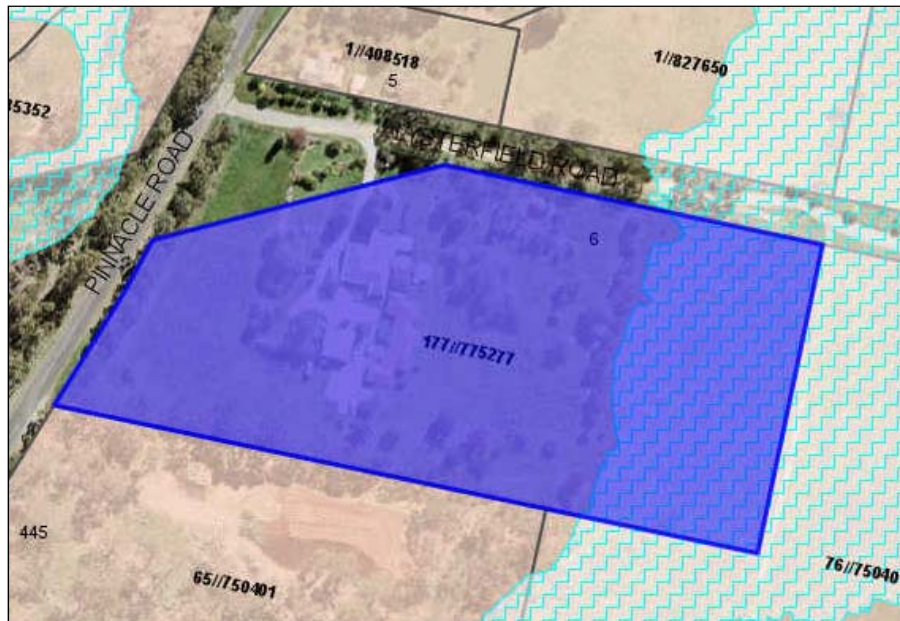
This clause applies to land identified on the Flood Planning Map as a Flood Planning Area and requires that, before any consent is issued, the consent authority must be satisfied that the proposal:

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The subject site is partly affected by flooding (see Figure 7), however the flood affected area is on the eastern side of the land, where a creek runs through the lower areas of the site. Land nearby to the west is also flood affected due to Blackmans Swamp Creek.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 7.2 (cont)****Figure 7 – flood map**

The proposed buildings and hard standing areas will be located clear of these flood affected areas. It is proposed to pipe stormwater to the watercourse on the site, which is discussed in further detail in the stormwater assessment below.

It is considered that the proposed development is unlikely to change flooding regimes on or off the site, and would be unlikely to cause or contribute to erosion, siltation or reduce riparian vegetation, and is therefore unlikely to create a cost burden on the community or neighbours. Council's Technical Services Department have advised that the proposal is considered to be acceptable in relation to this clause.

**7.3 - Stormwater Management**

This clause applies to all industrial, commercial and residential zones and requires that the consent authority be satisfied that the proposal:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water*
- (b) *includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water; and*
- (c) *avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Stormwater is to be piped to the existing watercourse on the subject land. Council's Development Engineer has reviewed the proposal in this regard, and recommends conditions of consent to satisfy the requirements of Clause 7.3. In particular, the stormwater is to be discharged through a standard headwall with appropriate energy dissipater and scour protection; and a licence from the Department of Planning Infrastructure and Natural Resources for work within 40m of the watercourse needs to be obtained. Overall it is considered that adverse stormwater impacts can be suitably mitigated.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**7.4 - Terrestrial Biodiversity**

This clause seeks to maintain terrestrial biodiversity and requires that consent must not be issued unless the application demonstrates whether or not the proposal:

- (a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land*
- (b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna*
- (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.*

Additionally this clause prevents consent being granted unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The proposal is located on land that has been identified on the LEP Terrestrial Biodiversity Map as partially comprising “High Biodiversity Sensitivity” (see Figure 4). Clause 7.4 applies to this proposal, and this matter was discussed in detail in the Section 1.7 – Biodiversity assessment earlier in this report. Overall it is considered that biodiversity impacts can be mitigated and managed through implementation of suitable tree removal measures, and a replanting scheme.

**7.5 - Riparian Land and Watercourses**

This clause seeks to preserve both water quality and riparian ecological health. The clause applies to land identified as a “Sensitive Waterway” on the Watercourse Map. The subject land contains such a waterway and therefore the consent authority must consider whether or not the proposal:

- (a) is likely to have any adverse impact on the following:*
  - (i) the water quality and flows within a watercourse*
  - (ii) aquatic and riparian species, habitats and ecosystems of the watercourse*
  - (iii) the stability of the bed and banks of the watercourse*
  - (iv) the free passage of fish and other aquatic organisms within or along the watercourse*
  - (v) any future rehabilitation of the watercourse and its riparian areas, and*
- (b) is likely to increase water extraction from the watercourse.*

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 7.5 (cont)**

Additionally, consent may not be granted until the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

Blackmans Swamp Creek to the west of the subject land is mapped as a “Sensitive Waterway” (see Figure 8). There is also a waterway within the site on its eastern side, however it is not mapped as being sensitive via the LEP. Notwithstanding this, the watercourse is officially recognised by NSW Office of Water, and the Shiralee DCP will require a vegetated riparian corridor between future development of the subject land (ie future residential lots in the R1 zone) and the waterway - hence the partial RE1 zoning on the land to allow for this. It is likely that this waterway will take stormwater runoff from all surrounding future development in a series of stormwater detention ponds/dams or wetland system, which will eventually feed into Council’s existing stormwater harvesting scheme.



**Figure 8 – LEP Sensitive Waterway map (from NSW Planning Portal)**

The applicant proposes to continue utilising the existing onsite water supply (ie bore and tanks) and onsite sewerage management (ie an effluent management system/septic system) for the existing facility as well as the proposed development.



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 7.5 (cont)**

Council's Development Engineers and Environmental Health officers do not support this arrangement. In particular concerns have been raised in regards to:

- whether the volume of water required by the existing and proposed facilities can be met by existing sources (no detail provided in the application);
- whether the quality of the water is suitable for the existing and proposed uses (approval from NSW Health would need to be obtained and no details have been provided in the application);
- whether the existing onsite waste disposal (septic) system can meet the capacity requirements for the large number of additional occupants and staff (an onsite effluent report has not been provided with the application); and
- the potential impacts of treating a large amount of sewerage onsite with regards to groundwater and nearby waterways (no detail provided in the application.)

It is considered that the subject land should be connected to a potable mains water supply, as well as to Council's sewer main, which are both currently being extended into the Shiralee area. Suitable supply and discharge connections will ensure that adverse impacts to the nearby waterways will be minimised. Conditions of consent are recommended to this effect. Service connections are discussed in greater detail in the LEP Clause 7.11 assessment below.

Overall, while there will always remain a risk to the waterway under extreme circumstances such as record storms and the like, it is considered that the risk of adverse impact can be appropriately managed to an acceptable level of risk.

**7.6 - Groundwater Vulnerability**

This clause seeks to protect hydrological functions of groundwater systems and protect resources from both depletion and contamination. Orange has a high water table and large areas of the LGA, including the subject site, are identified with "Groundwater Vulnerability" on the Groundwater Vulnerability Map. This requires that the consent authority consider:

- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
- (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

Furthermore consent may not be granted unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact,*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 7.6 (cont)**

As discussed in the Clause 7.5 assessment above, Council staff do not support the applicant's proposal to continue utilising the existing onsite water supply and onsite sewerage management system for the existing and augmented development. It is considered that the subject land should be connected to a potable mains water supply, as well as to Council's sewer main.

Subject to connecting to the mains sewer, the proposal is not anticipated to involve the discharge of toxic or noxious substances, and is therefore unlikely to contaminate the groundwater or related ecosystems. Subject to connecting to mains water, the proposal is unlikely to significantly increase extraction of groundwater/groundwater depletion. Conditions of consent are recommended in this regard to ensure that the proposal avoids impacts on groundwater and meets the requirements of this clause.

**Clause 7.11 - Essential Services**

Clause 7.11 applies and states:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) storm water drainage or onsite conservation,*
- (e) suitable road access.*

In consideration of this clause, the listed utility services are available or can be made available to the land and adequate for the proposal. Conditions of consent are recommended requiring extension, augmentation, upgrading and/or connection to urban utility services to the standards required to service the existing and proposed development. In particular:

- Water – connection to Council's reticulated water supply, which will require the extension of water mains to the development from Council's existing infrastructure in the Shiralee area (in Park Road, approximately 475m from existing building/facility – see Figure 9). All works will be at the applicant's expense.
- Sewer – connection of development to gravity sewer main, which will require the extension of sewer mains to the development from Council's existing infrastructure in the Shiralee area (currently in Shiralee Road some 860m from existing building/facility – see Figure 9). All works will be at the applicant's expense.
- Stormwater – to be piped to the existing watercourse (and scour protection to be provided). All works will be at the applicant's expense.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Clause 7.11 (cont)**

- Access – Previous consents for development on the land (DA 490/1998 – motel units and DA 361/2017 – group home) required road upgrade works to be undertaken, namely Lysterfield Road to be bitumen sealed from the Pinnacle Road intersection to the property entrance. The unsealed dirt road conditions were not deemed suitable for the increased traffic movements associated with those developments, however, the required upgrade works have not been completed to date. A modification application to the group home consent was approved to delay the road upgrade works until the future expansion of the use of the land (i.e. this subject application). The subject proposal will further increase traffic movements on Lysterfield Road and the unsealed dirt road is still considered unsuitable. Notwithstanding this, the SFR is likely to be extended through the Shiralee area in the near future, around the same time that this development proceeds; in which case upgrade works to the Pinnacle Road intersection will no longer be necessary, for reasons previously discussed. As such, Council's Development Engineers recommend that no road upgrade works are carried out by the proponent in relation to this development application.
- Waste – all waste will need to be collected by a private contractor, and the facility may require specialised medical waste storage and collection. Conditions of consent are recommended requiring a run-cost agreement to be entered into with waste collection contractor(s).



**Figure 9 – approximate location of mains sewer to service the area, and current location of mains water (shown by blue lines, connection required in Shiralee Road)**

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**STATE ENVIRONMENTAL PLANNING POLICIES****State Environmental Planning Policy (State and Regional Development) 2011**

State Environmental Planning Policy (State and Regional Development) 2011 is applicable. Clause 20(1) states that *“Development specified in Schedule 7 is declared to be regionally significant development”*.

Schedule 7(5) lists:

*Private infrastructure and community facilities over \$5 million*

*Development that has a capital investment value of more than \$5 million for any of the following purposes—*

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

In consideration of this clause, the proposed ‘health services facility’ development has an estimated capital investment value of \$5.5 million and thus is considered to be the “Regionally Significant Development”. Pursuant to Section 4.5 of the EP&A Act, the consent authority for regionally significant development is the regional planning panel for the area, being in this case the ‘Western Regional Planning Panel’.

**State Environmental Planning Policy Infrastructure 2007**

*State Environmental Planning Policy Infrastructure 2007* (Infrastructure SEPP) applies. The relevant provisions of the SEPP are outlined below.

*Division 10 Health Services Facilities - Clause 57 Development Permitted with Consent*

The proposed development is considered to be a “health services facility” under the Infrastructure SEPP, as previously defined in the previous LEP assessment. Hospitals as a sub-category of health services facilities may be carried out by any person with consent in a prescribed zone, pursuant to Clause 57(1) of this SEPP. Clause 56 defines the R2 zone as a prescribed zone. This application is seeking consent in accordance with this policy.

**State Environmental Planning Policy 55 - Remediation of Land**

*State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55) is applicable. Pursuant to Clause 7 *Contamination and remediation to be considered in determining development application:*

- (1) A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) it has considered whether the land is contaminated, and*

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**SEPP 55 (cont)**

- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

SEPP 55 Clauses 7(2), 7(4)(a) and 7(4)(c)(i) requires a preliminary contamination report to be prepared and submitted with an application for consideration for development for the purposes of a hospital if: the land is within an investigation area, and/or where there is no knowledge or incomplete knowledge as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out on the land.

In consideration of these relevant clauses, the site is not located within an investigation area, and is not known to have been used for a Table 1 purpose. The potential for contamination of the site is considered low, as the subject land is well-established for rural-residential use, and the part of the land on which the development will be carried out has a long history of being used as the curtilage of the dwelling house (i.e. planted garden area, domestic fruit trees, grazing for horses, etc.). Further contamination investigation as a precursor to potential site remediation is therefore considered unnecessary in this case. Notwithstanding this, Council's Environmental Health officer recommends a condition of consent in the event of an unexpected find during works (such as waste, odorous or stained soil, asbestos, underground storage tanks, suspect material etc).

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

**State Environmental Planning Policy Draft Remediation of Land**

The Draft Remediation of Land SEPP is applicable, and requires in part that consideration be given to potential contamination on nearby or neighbouring properties and groundwater. The land adjoining the site to the south is identified as being potentially contaminated due to its long-standing use as a quarry (mining/extractive industry). It is considered that the quarry is very small in scale, and the contamination status of this land is unlikely to adversely impact on the proposed development.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development. It is noted that the stormwater works (ie piping stormwater from the development into the watercourse) will require a "controlled activity" permit under the *Water Management Act 2000*, and a condition of consent is recommended to this effect.



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)****Shiralee Development Control Plan 2015**

*Shiralee Development Control Plan 2015* (the 'Shiralee DCP') applies to the subject land. Essentially the Shiralee DCP comprises a chapter of DCP 2004, and its contents take precedence over any equivalent controls in other chapters of DCP 2004. Any matters not addressed by the Shiralee DCP rely on DCP 2004, which is discussed in the next section of this report. An assessment of the proposed development against the relevant Shiralee DCP provisions will be undertaken below.

Clause 1.5 - Objectives

The objectives of the Shiralee DCP are:

- *To guide the urban expansion of Shiralee, south of the existing Orange urban area*
- *To promote a high quality urban environment with a diversity of housing and recreation opportunities*
- *To encourage alternative modes of transport and healthy lifestyles*
- *To reduce traffic congestion by providing for the day to day needs of residents within the precinct.*

The proposed development is considered to be reasonably consistent with the objectives, as set out in the following assessment.

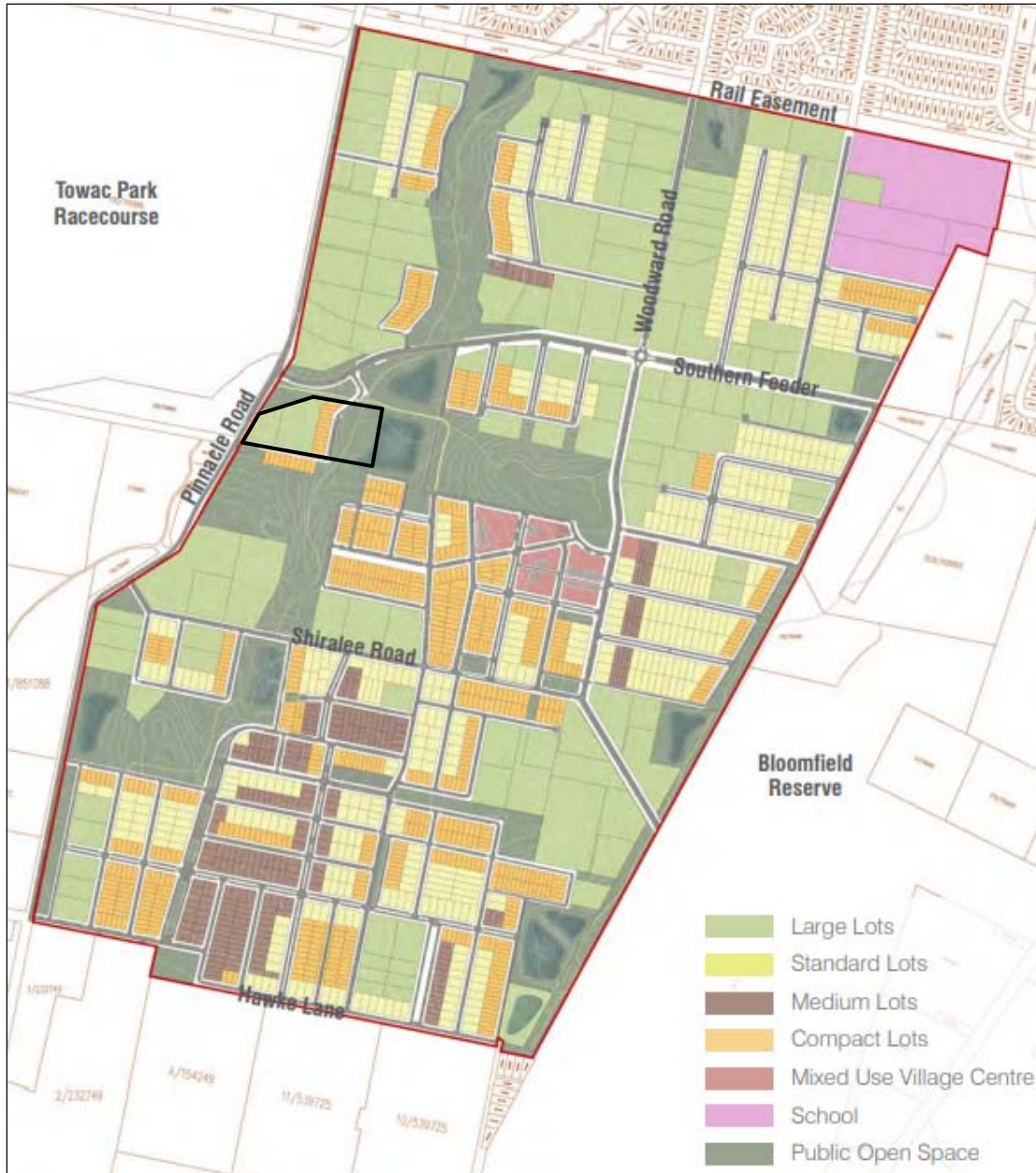
Clause 2.2 - Design Principles

The proposed development is consistent with the relevant design principles which underpin the Master Plan (see Figures 10 and 11) as follows:

- Feels separates to existing residential suburban areas north of the site.
- Conserves remnant vegetation.
- Maintains a rural edge along Pinnacle Road.
- Provides a diversity of lot sizes as shown on the Master Plan (although not proposed in this application, the development does not hinder the potential for future additional residential lots as set out in the Plan).
- Provides a connected network of public open spaces that links to existing open spaces (again, does not hinder the Master Plan's proposed open space links utilising the eastern part of the site in the future).
- Develop Shiralee consistent with the Master Plan and this DCP (not inconsistent with the Plan, where future growth can be achieved based on the proposed site layout).

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Shiralee DCP 2015 (cont)****Clause 2.2 - Design Principles (cont)****Figure 10 – Shiralee Structure Plan and housing densities (from Shiralee DCP)****Clause 2.3 - Residential Densities and Clause 2.5 - Lot Typologies**

As previously discussed, the Master Plan intends for the subject land to be developed into 12 compact lots (see Figures 10 and 11), with the existing buildings/facility being retained on a large lot. The Master Plan intends that the eastern part of the site which slopes towards the creek and eastern boundary becomes public open space.

The proposed hospital is sited wholly within the R2 zone/large lot density area, therefore the proposed development does not hinder the possibility of proceeding with the 12 additional residential lots in the future. Although the subject development application does not propose these additional residential lots as per the Master Plan, the proposal is not considered to be inconsistent with the Plan.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

Clause 2.3 - Residential Densities and Clause 2.5 - Lot Typologies (cont)

**Figure 10 – Shiralee Master Plan of subject land (from Shiralee DCP, Appendix A, Plate D)**

Clause 3.1 - Infrastructure Provisions

This matter has been previously discussed in LEP Clause 7.11, where it is considered that connection to all urban services is required (water and sewer mains etc). Subject to conditions of consent requiring these connections to be provided, the proposal will be consistent with this clause of the Shiralee DCP.

Clause 4.3 - Safety and Design

The Shiralee DCP requires all non-residential development to demonstrate consistency with the following Crime Prevention Through Environmental Design (CPTED) principles:

- *Clear sight lines between the public realm and the development shall be provided to promote passive surveillance.*
- *Clear lighting around the approaches to doorways and windows enhance monitoring. Such lighting shall be directed and hooded to contain the illumination within the property and prevent glare spilling into neighbouring residential properties.*
- *Landscaping shall be comprised of low ground covers, typically below 300mm in height and trees where low branches are above 1600mm in height. This approach preserves a clear line of sight through landscaping and avoids concealment opportunities.*
- *Where a building is setback from the street boundary, the boundary is to be clearly demarcated, through either low fencing, garden beds or edging to clearly signal the difference between the public and private realm.*

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

Clause 4.3 - Safety and Design (cont)

The application was referred to the NSW Police, who comment as follows:

*“Police note that the intended facility values the privacy of its clients and this can be taken into consideration when looking at treatment options to crime risks. As the development will increase the number of people on site at any one time so too will the crime risks increase and as such considerations must be made to lessen the risk. The most prominent recommendation by police is Surveillance. CCTV should be installed to cover public areas and communal areas. Lighting should be installed to support CCTV in periods of darkness. CCTV should be recorded digitally, accessible on site and recordings kept for a minimum of 28 days. In addition to CCTV clear and appropriate signage should be erected on the property to reduce excuse making opportunities”.*

The application states that no specific crime prevention measures are considered necessary, however Council staff and the NSW Police do not concur with this comment. Given the generous setback of buildings to the boundaries, and large number of plantings proposed, passive surveillance is unlikely to be achieved. Lighting details have not been provided with the application. Conditions of consent are recommended with regards to CCTV and lighting. Demarcation measures within the site itself are considered to be suitable.

It is noted that a neighbouring property lodged a submission in regards to the proposal, where security was the main concern raised. It is considered that due to the nature of the proposal and surrounds, high-level security measures such as man-proof boundary fencing, gated entrances etc, are not reasonable in this case.

Overall, subject to suitable measures being implemented on site as discussed above, the Shiralee DCP safety and design/CPTED principles can be reasonably met.

Clause 6.1 - Landscape and Private Open Spaces

Relevant controls set out in the Shiralee DCP include:

- *Larger Lots landscaping is to include a range of planting types including trees which provide good shade and partial screening of development*
- *Existing trees are to be incorporated within lots. Dwelling configurations and ground levels should ensure existing tree health and longevity.*
- *Bins should be concealed within a storage area so they are not visible from the street or an adjacent park.*

In consideration of above, the proposal seeks to retain existing trees and provide for a range of new trees, as previously discussed earlier in this report. Bin locations have not been provided with the application, however it is considered that there is ample space available on the subject land to provide for concealed storage. A condition of consent is recommended to this effect.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

Clause 7.4 – Street Tree Strategy

The Shiralee DCP identifies the trees lining Pinnacle Road as street trees to be retained, as well as the trees along the southern boundary to be retained as part of the land to the south. Apart from the removal of a few trees on the southern boundary (as previously discussed), all other identified trees will be retained. Replacement boundary trees are proposed for those to be removed.

The strategy also sets out suitable species for planting in the Shiralee area. The proposed landscaping plan is reasonably consistent with the list, although it is considered that more natives should be provided as previously discussed. Conditions of consent are recommended to this effect.

Clause 8.1 - Ecologically Sustainable Development

The Shiralee DCP requires development to be designed and constructed in compliance with ecologically sustainable development (ESD) principles. The controls to maximise energy efficiency mainly relate to new dwellings, but can be used for guidance in this case. Of relevance are the following controls:

- Maximize the energy efficiency of building designs by:
  - predominantly orientating roofs to allow for efficient use of solar collectors
  - providing opportunities for natural cross ventilation through building design and orientation, reducing the need for mechanical cooling
  - encourage the collection of rainwater and re-use of grey water irrigating gardens.
- Articulate the building form to provide interest and respond to the lot location by designing using a range of architectural elements that respond to the internal plan and provide environmental benefits (eg sun shading, verandahs and windows of varying sizes).
- Design houses using a range of high quality materials that:
  - provide compositional variety and respond to the site's rural setting and architectural vernacular
  - have insulating properties to provide thermal comfort, reducing the need for mechanical heating and cooling, and provide appropriate acoustic insulation
  - have low embodied energy.

Overall it is considered that the design and siting of the buildings, including materials, orientation, roof pitch etc, are all suitable for their proposed use. Notwithstanding this, it is considered that the northern communal rooms and TV/sunrooms could have larger windows to provide for increased daylight and solar access, improving winter energy efficiency, as well as occupant amenity. This matter was discussed with the applicant, who agrees to provide larger windows to this effect. A condition of consent is recommended in relation to this matter.

Clause 8.2 – Stream Classification and Clause 8.3 – Stormwater and Water Sensitive Urban Design and Environmental Hazards

These matters have previously been discussed in the LEP assessment section of this report.



## 6 LYSTERFIELD ROAD, ORANGE

19 March 2021

### Clause 9.2 – Pedestrian and Bicycle Network

The Shiralee DCP identifies cycling as an essential transport mode, and a cycle network will be established in the area in the future. No bicycle parking is proposed as part of the application, and a condition of consent is recommended to provide for some bicycle parking/storage should staff or visitors choose to travel to and from the site by this form of transport in accordance with the relevant controls:

- *Any development that is assessed as requiring an onsite parking area or at least five (5) spaces shall also be required to provide bicycle parking*
- *Bicycle parking is to be provided at the ratio of 1 bicycle space per 15 car parking spaces (or part thereof)*
- *All bicycle spaces are to be provided with a fixed rack or other feature to facilitate chain locking the bicycle*
- *Bicycle spaces are to be positioned so as to avoid conflict with car and service vehicle circulation*
- *Bicycle spaces are to be clearly delineated from other parking areas by means of lane marking and/or signage.*

### Clause 10.1 – Vehicle Parking

The Shiralee DCP encourages on-street parking, however this relates to residential development on new roads created as part of new subdivision consistent with the Plan's controls. Changes to Lysterfield Road are not being created as part of this proposal, and it is not considered adequate to have on-street parking in this case due to the nature and intensity of the development. Parking rates set out in DCP 2004 are therefore applicable, and will be discussed later in this report.

### Clause 10.2 – Service vehicle loading spaces

The proposal is considered to be reasonably consistent with the relevant controls as follows:

- *All commercial development is to demonstrate adequate loading zone access for the largest vehicles likely to service the proposal*

The proposed development includes a service vehicle area to the front of the building. Deliveries from medium rigid vehicles are the largest expected vehicle. Details of waste collection have not been provided, however the proposal provides for adequate space onsite for this to be carried out.

- *The location of loading zones and spaces is not to detract from the public realm or streetscape and be located to the rear of the premises or via a service laneway*

The loading area is proposed at the front of the main administration building, however the building and loading area are not directly off either street frontage, being set back from Lysterfield Road, and buffered using existing and proposed vegetation.

- *All loading docks are to be screened from view from the street by planting*

As noted above, existing and proposed landscaping will screen the development from the streets.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

Clause 10.3 – Parking area design

The proposal is considered to be reasonably consistent with the relevant controls as follows:

- *Onsite parking is to be located in consolidated parking areas at the rear of premises or as shown on the Masterplan*

The proposed parking area is to be separated from the existing car parking area, which will result in two consolidated parking areas. The Master Plan does not provide for parking design for a development of this scale or nature.

- *Driveways for commercial car parks that are dual direction are to be clearly lane marked within the parking area and directional arrows are to be provided both internally and at the entrance / exit points*

Details have not been provided in the application, and conditions of consent are recommended to this effect.

- *The most convenient parking locations are to be assigned in order of preference to disabled parking requirements first and all other forms of parking second*

The proposal provides for one (1) x accessible/disabled parking space in the new car parking area, however the BCA requires two (2) x accessible spaces to be provided in this case. The proposed spaces can be assigned closest to the main entry point of the administration building. Conditions of consent are recommended to this effect.

- *Bicycle parking locations are to be placed in high convenience locations, such as converting the nearest non-disabled car parking spaces*

This matter has been discussed previously, and conditions of consent are recommended to this effect.

- *Plant trees in carparks to provide evenly distributed shade across pavement areas*

Trees are proposed around the car park, but will not evenly distribute shade across all spaces. Amendments to the landscaping plan are recommended by way of condition of consent.

- *Tree planting is to be in accordance with Orange City Council Tree Planting Detail*

As previously discussed, the proposed plantings are reasonably consistent with the Shiralee DCP tree strategy, although some additional/substituted natives are recommended.

**Development Control Plan 2004**

The following parts of DCP 2004 are applicable to the proposed development:

- Part 0 – Transitional Provisions (0.4-2 Tree Preservation)
- Part 2 - Natural Resource Management
- Part 3 - General Considerations
- Part 4 - Special Environmental Considerations
- Part 5 - General Considerations for Zones and Development
- Part 7 – Development in Residential Zones
- Part 15 – Car Parking

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**DCP 2004 (cont)**

The relevant matters in Part 0 were considered in the EP&A Act Section 1.7 assessment earlier in this report. DCP Parts 2, 3 and 4 were considered in the foregoing LEP assessment. The relevant matters in Part 5 are addressed later in this report (refer *Any Submissions*).

The Planning Outcomes for Part 7 of DCP 2004 are for new development in residential zones, however the controls in the Shiralee DCP apply to the Shiralee area, as already discussed above. The Part 7 Planning Outcomes for “health consulting rooms” can be used as guidance for the proposed hospital, and are considered in the following assessment. Part 15 Car Parking is also considered below.

DCP Part 7.8 - Planning Outcomes for Health Consulting Rooms

1. *The building complements the character of residential development in the vicinity in design features, height and setbacks.*

The design of the proposed buildings are considered to be appropriate to the rural-residential setting due to the following:

- The proposed buildings will be single storey, which is the predominate height in the surrounds and is considered to be an appropriate residential scale. It is likely that future dwellings in the immediate surrounding area will be a mix of one and two storey heights.
- The proposed buildings will appear residential in character through design, materials, colours and detailing, and will be similar to contemporary dwellings with regards to roof pitch, proportions, openings, external finishes, plantings etc, albeit with larger footprints.
- Although the building footprints will be larger than usual residential scale, overall site coverage will be appropriate given the large size of the site.
- The buildings are set back sufficiently from the boundaries, and therefore will have appropriate visual bulk and scale in relation to future development in the area (ie compact lots and dwelling houses and areas of open spaces).

2. *Onsite parking is provided at a rate of two spaces for each professional operating from the premises at any one time ...*

It is considered that these rates may not be appropriate for the subject proposal, and car parking is addressed in detail in the Part 15 assessment below.

3. *Front gardens are established or retained consistent with the garden character of the locality.*

Landscaping and trees have previously been discussed in various sections of this report, and some changes are recommended with regards to species and plantings being spread across the car parking area.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

DCP Part 15.6 – Off-street Car Parking

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

DCP 2004 prescribes a minimum car parking requirement for the defined land use of “hospital” as follows:

Hospital	1 space for every 3 beds + 1 space for each resident doctor and 1 space for every 2 visiting doctor + 1 space for every 2 employees
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Based on the DCP 2004 rates, the proposal generates the following additional car parking demand:

29 beds at 1 space/3 beds = 9.67 spaces

16 (full time equivalent) staff at 1 space/2 employees = 8 spaces

**Total = 17.67 (18) spaces**

The proposed development provides for 20 new car parking spaces on the site, two of which should be allocated as accessible spaces as previously discussed, in accordance with these DCP rates.

It is noted that the proposed hospital is not similar in nature to a usual hospital with regards to parking demand, where clients/patients will not come to and from the site using their own vehicles. Visitors coming to the site will be kept to a minimum, and most parking demand will be generated by staff coming and going. That said, given that the proposed development expects up to 16 staff during peak periods, involves pool vehicles, and some visitors, it is likely the 20 spaces will be required at peak times.

Overall, the proposed parking arrangements are considered ample and suitable for the requirements of the proposed development. Conditions of consent are recommended in relation to the parking spaces and driveway areas being designed in accordance with relevant standards. It is also recommended that all of these areas be sealed, where the driveway is currently dirt/unsealed, which is not acceptable for a more intensified use of the land.

Details of lighting have not been provided with the application, and conditions of consent are recommended requiring that the car parking areas be adequately lit. Landscaping, loading, and bicycle parking have been previously discussed and conditions of consent are recommended in regards to these matters. Sufficient manoeuvring areas will be available onsite to facilitate forward direction egress for passenger vehicles, as well as for medium rigid vehicles accessing the loading area.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**DEVELOPMENT CONTRIBUTIONS****EP&A Act Section 7.11 Development Contributions**

Development contributions pursuant to the EP&A Act are not applicable in this case, where the *Orange Development Contributions Plan 2017* only applies to new residential development.

As previously discussed, the Shiralee DCP anticipates 12 additional residential lots to be developed on the subject land in the future, which would require monetary contributions for local and wider services to benefit the upcoming Shiralee area. This payment would amount to \$240,000 (based on 12 lots at current rates to 31 May 2021), and should the land not be further developed in accordance with the Shiralee masterplan (DCP), there will be a shortfall in funds towards local facilities (eg recreational and community facilities, roads and traffic management etc).

Notwithstanding this, the proposed development does not hinder the possibility of proceeding with the 12 additional residential lots in the future, where the proposed hospital will be wholly contained within the R2 zoned area of the land, which the DCP anticipates to be retained as one lot. Thus the land owner (or future land owner) could be reasonably expected to further develop the land into additional residential lots, whereby such contributions will be payable.

**Local Government Act Section 64 Headworks Charges**

The proposed hospital necessitates the payment of water and sewer headworks contributions pursuant to Section 64 of the *Local Government Act 1993*.

The water and sewer contributions are applicable as follows:

- 700m<sup>2</sup> office building x 0.01ET/m<sup>2</sup> = 7.0 Water and 7.0 Sewer ETs.
- 29 beds for new accommodation (special care home W0.5et/S0.75et per bed) = 14.5 Water and 21.75 Sewer ETs.
- Ten (10) beds for existing accommodation (not charged under previous consents as there were no connections to Council services, but connections will now be required) = 5.0 Water and 7.5 Sewer ETs.

**Total = 26.5 Water ETs and 36.25 Sewer ETs**

A condition of consent is recommended to this effect. It is noted that these charges do not cover the costs of the developer extending and connecting into the existing water and sewer infrastructure, which are in addition to the contributions.

The current contribution rates per ET for Water and Sewer Headworks are as follows:

Water - \$8,260/ET

Sewer - \$5,100/ET

These contribution rates are indexed, and an exact value for ETs is calculated at the time of Construction Certificate/payment.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)****Demolition of a Building (clause 92)**

The proposal does not involve the demolition of any buildings.

**Fire Safety Considerations (clause 93)**

Council's Environmental Health and Building Surveyor comments that the proposal is capable of complying with the BCA. It is noted that the new buildings appear to be adequately separated from each other. More detail will be required at the Construction Certificate stage, in particular details of the fire separation of each of the sleeping rooms.

**Buildings to be Upgraded (clause 94)**

The proposal does not involve the rebuilding, alteration, enlargement or extension of the existing buildings, and as such their upgrade is not considered necessary.

**BASIX Commitments (clause 97A)**

BASIX is not applicable to the proposed development. A Section J Energy Efficiency Statement will be required with the Construction Certificate application.

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

Impacts of the proposed development have been considered in the foregoing sections of this report and include:

- Setting and context (in accordance with the Infrastructure SEPP, Shiralee DCP and DCP 2004).
- Visual and heritage impacts (streetscape presentation, building design, siting, detailing, landscaping etc).
- Landscape character (earthworks, tree removal, tree retention, mitigation plantings, and Shiralee DCP street tree strategy).
- Parking impacts (site access, onsite vehicle areas, car parking, manoeuvring etc).
- Environmental impacts (biodiversity, earthworks, groundwater, stormwater, waterways, flooding, contamination, servicing etc).
- Security and crime prevention.
- Waste management.

Other impacts associated with the development are considered below.

**Traffic Impacts**

The applicant anticipates the following daily traffic movements:

- Existing 3 facility vehicles + proposed 3 facility vehicles = 6 facility vehicles
- Existing 6 staff vehicles + proposed 16 day staff vehicles + proposed 3 overnight staff vehicles = 25 staff vehicles

**Total = 31 daily vehicle movements/trips**

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Traffic Impacts (cont)**

With regards to servicing, it is anticipated there are existing 2-3 deliveries each week plus proposed 3 deliveries each week = 6 delivery vehicle movements each week. Some of these deliveries may be consolidated for the existing and proposed facilities, therefore these traffic movements may be less than stated once the facility is established.

Currently Lysterfield Road is a dirt/unsealed road designed only to take a low number of residential vehicles associated with the rural lands. This matter has previously been discussed in the LEP Clause 7.11 assessment. It is considered that while this development triggers the need for improved road conditions, the future SFR road will render the previously required upgrade works unnecessary. It is considered that Council's road network plans for the Shiralee area will ensure suitable road conditions to handle the increased intensity of traffic movements coming and going from the site.

Subject to driveway upgrade works being undertaken, the proposal will have acceptable impacts on local traffic levels and amenity due to the following:

- The proposed onsite car parking arrangements are considered to be suitable, as outlined previously.
- The onsite car park and driveways will be designed and constructed consistent with applicable standards.
- All vehicles will enter and exit the site in a forward direction.
- The development will not generate or require large service vehicles, where medium rigid vehicles can be accommodated on the site.

**Neighbouring Residential Amenity**

Rural-residential properties surround the subject land to the north and west on Lysterfield and Park Roads. The closest dwelling house to the north is owned by Council and will be demolished to make way for the future SFR. It is currently unoccupied. It is considered that the proposed hospital will not adversely impact on residential amenity for dwellings nearby to the site, as considered below.

**Acoustic Impacts**

Noise generating activities associated with operation of the hospital are assessed to be:

- noise from staff and clients moving around outside of the buildings (eg drop-off, pick-up, walking between buildings, walking around the site etc);
- noise emission from external mechanical services on the buildings (eg air conditioning units, kitchen extraction fans etc); and
- noise from vehicle movements and activities in the loading dock, car park, and driveway areas.

These noise impacts are already typical to the site associated with the existing group home. Although the use of the site will be intensified, the proposal is unlikely to substantially alter the localised acoustic environment due to the large extent of the site and separation distances to the nearest neighbouring dwellings, being approximately 160m to the north, and some 400m or more to the east, northeast and south. It is considered that noise emissions associated with the development will not exceed environmental noise criteria contained in the EPA Noise Policy for Industry 2017.



**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

Acoustic Impacts (cont)

Council's Environmental Health Officer recommends that deliveries be limited between 7am and 6pm Monday to Friday, as this is likely to be the activity with the potential to generate most noise, and should be restricted to daytime hours only.

It is noted that there is likely to be future dwellings nearer to the proposed buildings than there are at present, as set out in the Shiralee DCP/Master Plan. Notwithstanding this, the proposal is still unlikely to have adverse acoustic impacts on these future neighbours. Further, the hospital will be an established feature of the neighbourhood by the time the future dwellings are designed and sited.

Privacy and Solar Access

The proposed development will not impact on privacy or solar access (ie overshadowing) for the adjoining dwellings due to separation distance. Future dwellings are also unlikely to be adversely impacted as they can be designed to ensure windows and open space areas have a suitable interface with the subject development.

Lighting

Conditions of consent are recommended requiring that external lighting of the buildings, car parking areas etc, shall not cause nuisance glare for nearby dwellings.

**Road Noise Impacts on Hospital**

Given the site is in close proximity to the approved Southern Feeder Road (SFR) corridor, consideration has also been given to potential road noise impacts on the occupants of the proposed hospital, having regard to the *NSW Road Noise Policy 2011*.

Whilst the Development Application has not considered road noise, assessment of future road noise has been undertaken using the Traffic Noise Assessment within the Orange City Council *Review of Environmental Factors* (REF) that has been approved for the construction of the road, once final funding is secured.

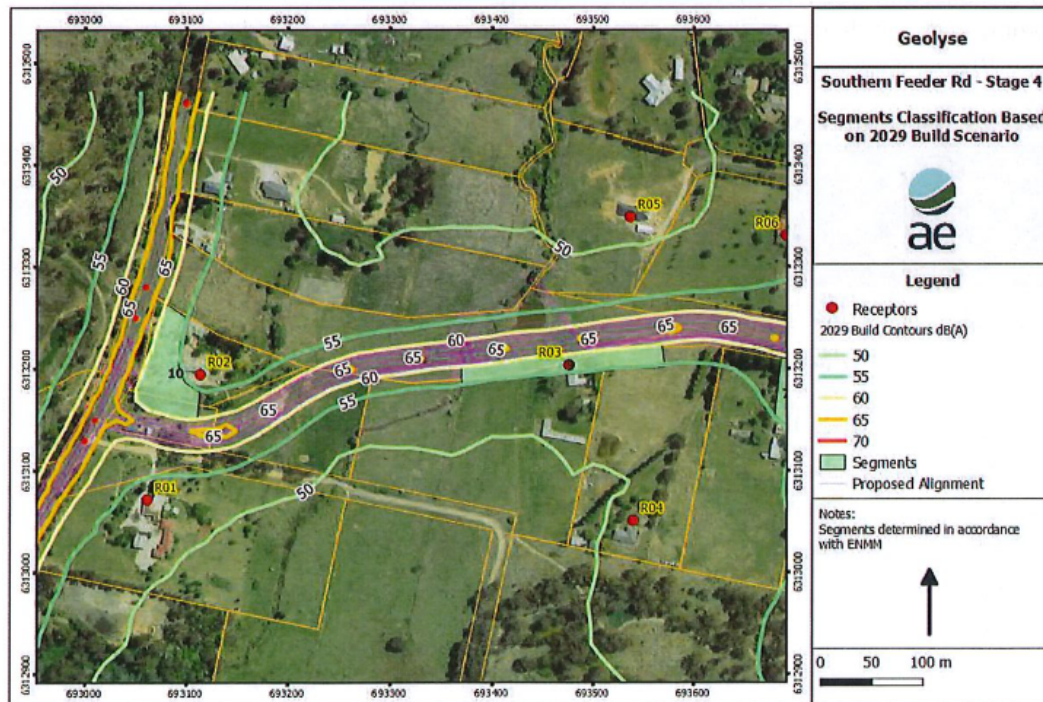
The Traffic Noise Assessment within the REF was prepared by Assured Environmental, dated 27 March 2020. The report concludes that the construction and operation of the SFR would result in a significant increase in traffic volume using the section of Pinnacle Road that adjoins the proposed hospital (see Figure 11). The noise assessment considers noise from the future SFR, the intersection of the SFR and Pinnacle Road, and the segment of Pinnacle Road heading south around the Towac Race Course. Traffic volumes are expected to increase due to through-traffic, along with additional local traffic that would arise as the Shiralee area is developed.

The *NSW Road Noise Policy 2011* identifies that a hospital is a "sensitive" land use, and as such has a lower internal noise target than standard commercial and residential development. The Policy specifies that the internal noise levels of hospital wards should not exceed 35dB(A), with some interpolation permitted from the 'maximum' levels shown in the Australian Standard 2107:2000. Open space areas for passive recreation (such as the outdoor sitting area adjacent to rehabilitation unit 1) are required by the NSW Policy to have a maximum noise target of 55dB(A). Neither the Road Noise Policy nor *State Environmental Planning Policy (Infrastructure) 2007* identify an internal noise level for an office (i.e. the administration building).

## 6 Lysterfield Road, Orange

19 March 2021

### Road Noise Impacts to Hospital (cont)



**Figure 11 – Acoustic diagram (from Southern Feeder Road Stage 4: Road Traffic Assessment)**

The proposed development's hospital rehabilitation Units 1 and 2 located on the western side of the site have been assessed as being hospital wards, as patients will be both living and sleeping in these buildings. A maximum internal noise level from the adjacent road of 35dB(A) therefore applies.

To achieve compliance with the NSW Road Noise Policy, a combination of architectural design features would be required to be installed within these proposed rehabilitation units, and solid screening surrounding the outdoor sitting area to the north of the rehabilitation units 1. Given the close proximity of the rehabilitation units to Pinnacle Road, preference is given to not allowing solid noise barriers between the units and the roadway, as adverse visual impacts are likely to arise on the existing streetscape of the area, which has larger setbacks of open, well landscaped gardens.

Condition of consents are recommended that plans are amended prior to the issue of a Construction Certificate, and are included in the draft Notice of Approval, as follows:

- Applicant to detail architectural design features proposed to be installed within rehabilitation Units 1 and 2 to ensure that the internal traffic noise levels within the buildings will not exceed 35dB(A); and
- A solid 2.0m high lapped and capped timber screen to be provided immediately around the outdoor seating area of rehabilitation Unit 1 that faces the SFR and Pinnacle Road.

Subject to these two conditions, it is considered that internal and external traffic noise levels within the hospital development from the adjacent Pinnacle Road and future Southern Feeder Road would achieve compliance with the *NSW Road Noise Policy 2011*, and ensure adequate amenity for resident clients, along with protecting the operation of the public road network.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Social and Economic Effects**

The proposed development is unlikely to generate a negative social or economic impact. The proposed hospital aims to provide care and rehabilitation for people with drug and alcohol problems, which will enhance health care services within the City and wider region, as well as generate employment opportunities during and post construction, and complement and enhance the role of Orange as a major regional business and service centre.

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

The subject land is considered suitable for the development due to the following:

- the proposal is a permitted landuse in the R2 Low Density Residential zone
- the site has direct frontage and access to Lysterfield Road
- the site topography is level, with minor earthworks required
- there is no known contamination on the land
- all utility services are available and adequate (upgrades required)
- the site is not subject to natural hazards
- the environmental values of the site are unlikely to be adversely impacted subject to appropriate measures being undertaken during works, and appropriate connections being provided to services
- the site is not known to contain any Aboriginal, European or archaeological relics.

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

The proposed development is defined as "advertised development" under the provisions of the CPP. The application was advertised for the prescribed period of 14 days and at the end of that period two (2) submissions were received.

One submission was received from Crown Lands, who own the land directly adjacent to the south. They comment that they have no objections to the proposed development, where no impacts to Crown land have been identified.

The other submission was an objection from a neighbour to the northeast of the site (on Park Road), who raises the following concerns:

Security - no security features are proposed, patients free to come and go, unexplained occurrences on neighbour's land (gates left open, taps left on, feed room doors left open and horses becoming unwell).

Staff comments: The alleged occurrences may be related to the existing use of the land, and it is not reasonable to suppose that the proposed development will have such impacts on neighbouring land. Security has been discussed in the "Likely Impacts" assessment above. It is considered that, subject to conditions of consent, the development is unlikely to have adverse impacts on the area in this regard. It is also noted that while high fencing could be installed to maintain security between the site and to adjacent neighbour's land, it is not considered reasonable or desirable given the character and context of the site and surrounds. The applicant notes that they wish to retain the open nature of the land for their clients, and Council staff concur with this statement. The facility will be permanently staffed.

**6 LYSTERFIELD ROAD, ORANGE**

19 March 2021

**Any Submissions (cont)**Rates and property values will be affected

Staff comments: these are not planning related matters relevant to the assessment.

**PUBLIC INTEREST s4.15(1)(e)**

The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines, etc. that have not been expressly discussed in this assessment.

**SUMMARY**

The proposed development is permissible with consent pursuant to *State Environmental Planning Policy (Infrastructure) 2007*. The proposed development complies with the relevant aims, objectives, and provisions of Orange LEP 2011, DCP 2004, and Shiralee DCP 2015. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

**COMMENTS**

The comments and requirements of the following experts have been considered in the above assessment and attached draft Notice of Approval (conditions of consent):

- Council's Environmental Health and Building Surveyor
- Council's Assistant Development Engineer, and Manager Engineering Services
- Council's Environmental Health Officer
- Council's Director Development Services
- NSW Police
- Crown Lands

Kelly Walker

**SENIOR PLANNER**