



DEVELOPMENT APPLICATION

Proposed Subdivision (2 Lot Residential) and
Construction of 2 New Dwellings
Lot 129 DP 1237871
1 Scarborough Street, Orange



Prepared for
Willowdene Constructions
March 2021

Ref: DA2PJB19052

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INTRODUCTION

1.1 OVERVIEW

This development application relates to vacant residential land at 1 Scarborough Street, Orange, described as Lot 129 DP 1237871. The proposal involves:

- Construction of a single-storey dwelling (Dwelling 2) on the subject land, as depicted in the attached plans by Sam Morgan Designs (refer *Annexure B*).
- Subdivision to create 2 lots as depicted in the attached plans by Peter Basha Planning & Development (refer *Annexure A*). Proposed Lot 1291 will excise proposed Dwelling 1. Proposed Lot 1292 will excise proposed Dwelling 2.
- Construction of a single-storey dwelling (Dwelling 2) on proposed Lot 2, as depicted in the attached plans by Sam Morgan Designs (refer *Annexure B*).

It is proposed to proceed with the development in two stages as follows:

Stage 1 Construction of proposed Dwelling 2, concurrent with the subdivision to create proposed Lots 1291 and 1292

Stage 2 Construction of proposed Dwelling 1

The proposed subdivision relies on a variation to the Minimum Lot Size of 500m² which applies to the subject land. A formal request to vary this development standard pursuant to Clause 4.6 of Orange LEP 2011 is provided in *Annexure D*.

It should be noted that the subject land already has an approval for *Dual Occupancy and Subdivision (2 Lot Residential)* pursuant to DA 258/2019(1). This current DA is being lodged primarily to change the staging of the development as outlined above) and to effect minor changes to the dwelling floor plans.

This application represents a fresh DA as opposed to a modification only because the change in staging also changes the description of the development. However, this latest proposal remains essentially the same as that approved under DA 258/2019(1) and does not introduce any additional impacts.

1.2 APPLICANT

Willowdene Constructions Pty Ltd
c/- Peter Basha Planning & Development
PO Box 1827
ORANGE NSW 2800

1.3 OWNER

Willowdene Constructions Pty Ltd
c/- "Dooleys"
307 Forest Road
SPRING HILL NSW 2800

1.4 DOCUMENTATION

This report provides an assessment of the proposed development as required under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

The development application consists of this report, a completed application form, and the following documentation:

Annexure A – Plans by Peter Basha Planning and Development Pty Ltd

Figure 1 Location
Figure 2 Existing Boundaries and Site Detail
Figure 3 Proposed Subdivision

Annexure B – Plans by Sam Morgan Designs

Drawing DA 1 Site Plan
Drawing DA 2 Floor Plan (Dwelling 1)
Drawing DA 3 Elevations (Dwelling 1)
Drawing DA 4 Floor Plan (Dwelling 2)
Drawing DA 5 Elevations (Dwelling 2)
Drawing DA 6 Construction Details, Sediment Control, BASIX
Drawing DA 7 Generic Perspective, Driveway Gradient
Drawing DA 8 Subdivision Plan
Drawing DA 9 Shadows Northern Windows (Dwelling 1)

Drawing DA 10 Shadows Northern Windows (Dwelling 2)

Drawing DA 11 Shadow Diagrams 9am and 10am

Drawing DA 12 Shadow Diagram 11am and 12pm

Drawing DA 13 Shadow Diagram 1pm and 2pm

Drawing DA 14 Shadow Diagram 3pm

Annexure C

BASIX/NatHERS Certificates

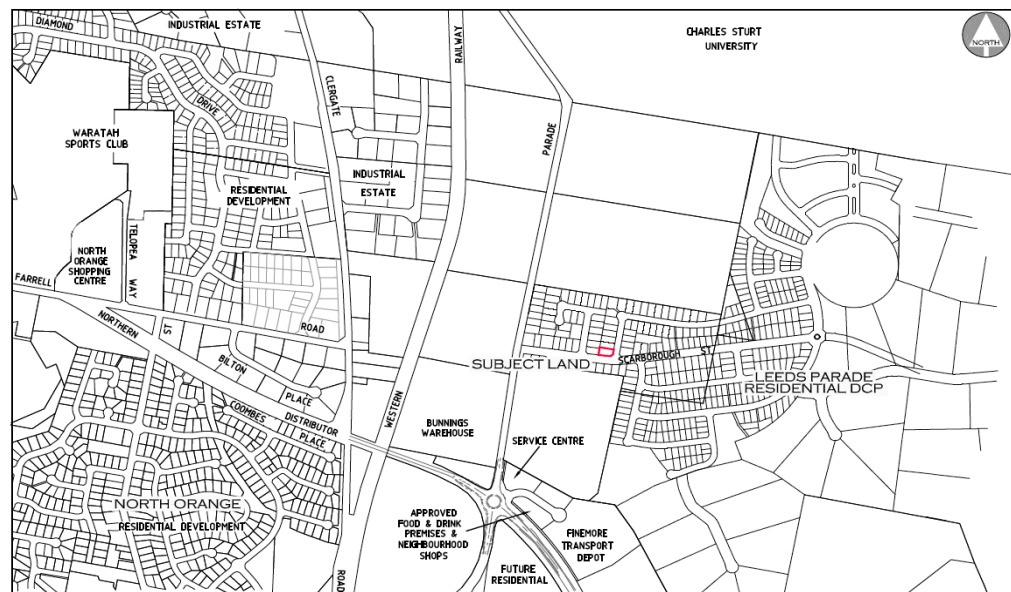
Annexure D

Request – Exceptions to Development Standard (Clause 4.6, Orange LEP 2011)

SUBJECT LAND

2.1 LOCATION, TITLE AND ZONING

The subject land is located on the north western corner of the Scarborough Street and Miriam Drive intersection in the developing Leeds Parade residential area (refer below and Figure 1). The street address is 1 Scarborough Street, Orange.



The Real Property description is Lot 129 DP 1237871, Parish of Orange, and County of Wellington.

The land is zoned R1 General Residential pursuant to Orange Local Environmental Plan (LEP) 2011.

2.2 SITE DESCRIPTION

The land is a corner allotment with an area of 905.8m². It has a 15.8 metre frontage (plus splay) to Scarborough Street which forms the eastern boundary; and some 34.6 metre frontage (plus splay) to Miriam Drive which forms the southern boundary. The northern boundary is 40 metres long while the western boundary is 24 metres long.

The subject land is vacant. There are no trees within the site and the surface cover is grass. The land falls towards the north east. The terrain is gradual with cross fall in the order of 2.8 metres.

An easement to drain sewage (2 metres wide) exists in the north east corner.

2.3 SERVICES

Council's sewer main is located within the identified easement. Stormwater, town water, electricity, gas and telephone mains are located at the front of the site in the road reserves.

2.4 URBAN CONTEXT

The subject land is located within a relatively new residential release area. The adjoining land to the north comprises a single storey dwelling. The adjoining land to the west comprises a dwelling house and associated farm shed, water tank and other infrastructure.

On a slightly broader scope, the urban release area development pattern comprises established dwellings; dwellings under construction and vacant lots.

2.5 CONSTRAINTS AND OPPORTUNITIES

A site analysis diagram has been provided in Figure 2. The constraints and opportunities for the development are summarised as follows:

- Due to its size and configuration, the subject land represents a suitable site for the development and enables the proposal to continue the streetscape pattern of single-storey detached dwellings that face the street.
- There is no important vegetation within the site.
- The terrain is reasonably gradual and retaining walls can be incorporated.
- The slope of the site and the location of existing services will enable the development to achieve gravity drainage to sewer and stormwater mains via an extension to the existing easement along the northern boundary.

THE PROPOSAL

This application seeks consent for development of the land as follows:

3.1 PROPOSED DWELLING 1

Proposed Dwelling 1 will contain 4 bedrooms (with ensuite to main); open-plan kitchen/dining/living zone; main bathroom; laundry; alfresco area; and attached double garage.

The external finishes comprise:

- Face brick walls
- Colorbond roof sheeting at 27° pitch
- Powder coated aluminium-framed windows
- Colorbond panel style garage door

The site of Dwelling 1 will be landscaped, and lawn areas will be established. Private open space will be provided and made private with 1.8m high fencing. A concrete driveway will be constructed.

3.2 PROPOSED DWELLING 2

Proposed Dwelling 2 will contain 3 bedrooms (with ensuite to main); open-plan kitchen/dining/living zone; main bathroom; laundry; alfresco area; and attached double garage.

The external finishes comprise:

- Face brick walls
- Colorbond roof sheeting at 27° pitch
- Powder coated aluminium-framed windows
- Colorbond panel style garage door

The site of Dwelling 2 will be landscaped, and lawn areas will be established. Private open space will be provided and made private with 1.8m high fencing. A concrete driveway will be constructed.

3.3 PROPOSED SUBDIVISION

As shown in the attached Figure 3, it is proposed to subdivide the subject land to create 2 urban residential lots as follows:

Lot	Area (m ²) subject to survey
1291	477.5m ²
1292	428.3m ²
TOTAL	905.8m²

According to Orange DCP 2004, the proposed lots represent Cottage Lots (350-500m²).

Proposed Lot 1291 will excise Dwelling 1 and obtain vehicle access via Scarborough Street. Proposed Lot 1292 will excise Dwelling 2 and obtain vehicle access via Miriam Drive.

Each of the proposed lots/dwellings will be connected to urban utility services in accordance with the requirements of the relevant supply authority.

Retaining walls will be constructed where necessary and complemented with landscaping

3.4 STAGING

It is proposed to proceed with the development in two stages as follows:

- Stage 1 Construction of proposed Dwelling 2 concurrent with the subdivision to create proposed Lots 1291 and 1292
- Stage 2 Construction of proposed Dwelling 1

TOWN PLANNING CONSIDERATIONS

In determining the application, Council must take into consideration the relevant matters under section 4.15 of the Environmental Planning and Assessment Act, 1979. These are assessed below.

4.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS

4.1.1 Orange Local Environmental Plan 2011

Orange Local Environmental Plan 2011 (the LEP) applies. The relevant provisions are considered below.

Zoning

The subject land is zoned R1 General Residential. The zone objectives are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- 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.

The proposal is consistent with the zone objectives as follows:

- In response to the first stated objective, the proposal would have a positive effect on the housing needs of the community by increasing the offering and range of residential accommodation.
- In response to the second stated objective, the proposal contributes to the variety of housing types and densities.
- The third stated objective is not relevant to this proposal. The development involves residential land use only.

- In consideration of the fourth zone objective, the subject land is within an establishing residential area that is to be serviced by public bus routes.
- The fifth stated objective pertains to the Southern Link Road and is not relevant to this proposal.

Permissibility

According to the Dictionary in the LEP, the proposed development would be defined as *subdivision* and *dwelling houses*.

Subdivision is permissible with consent pursuant to Clause 2.6(1).

Pursuant to the Land Use Table in the LEP, each *dwelling house* is permitted with consent in the R1 Zone.

Clause 1.2 Aims of plan

The aims of the LEP are as follows:

- a) To encourage development that 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 the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,
- c) To conserve and enhance the water resources on which Orange depends, particularly water supply catchments,
- d) To manage rural land as an environmental resource that provides economic and social benefits to Orange,
- e) To provide a range of housing choices in planned urban and rural locations to meet population growth,
- f) To recognise and manage valued environmental heritage, landscape and scenic features of Orange.

In consideration of the LEP aims, the following comments are provided in support of the development:

- For the reasons outlined in this report, the proposal will complement and enhance the character of Orange as a major regional centre [*General Aim (a)*].
- The proposal would have a neutral effect in terms of the social, economic and environmental resources of the City. There are no aspects of the proposal that would compromise the principles of ecologically sustainable development [*General Aim (b)*].
- There are no aspects of the proposal that would represent a direct threat to the City's water resources [*General Aim (c)*].
- The management of rural land as an environmental resource is not relevant to this proposal [*General Aim (d)*].
- The proposal will contribute to the City's range and supply of housing choices [*General Aim (e)*].
- For the reasons outlined in this report, the proposal will not adversely affect the value of heritage, landscape and scenic features of the City [*General Aim (f)*].

Clause 4.1 Minimum subdivision lot size

Pursuant to the Lot Size Map, the subdivision of the land is subject to a minimum lot size of 500m².

The proposed lots do not satisfy the MLS and a variation is sought pursuant to LEP *Clause 4.6 Exceptions to Development Standards*.

Clause 4.6 Exceptions to development standards

The proposed lots do not satisfy the MLS of 500m². Therefore, the applicant seeks recourse to Clause 4.6 of the LEP to vary this development. Clause 4.6 allows development consent to be granted for development even though the development would contravene a development standard. The objectives of this clause are as follows:

- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

A formal request to vary the development standard pertaining to the MLS is provided in *Annexure D*.

Clause 7.3 Stormwater management

Clause 7.3 provides as follows:

- 1) The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies and on adjoining downstream properties, native bushland and receiving waters.
- 2) This clause applies to all land in residential, business and industrial zones.
- 3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
 - b) includes, where practical, on-site 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.

The proposed development will be connected to the existing stormwater mains in accordance with Council's normal requirements.

Clause 7.6 Groundwater vulnerability

The subject land is defined on the Orange Local Environmental Plan 2011 – *Groundwater Vulnerability Map* as having moderate groundwater vulnerability. Clause 7.6 of the LEP provides as follows:

- 1) The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.
- 2) This clause applies to land identified as “Groundwater Vulnerability” on the *Groundwater Vulnerability Map*.
- 3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
 - a) whether or not the development (including any on-site 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.
- 4) Development consent must not be granted to development on land to which this clause applies 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.

There appear to be no aspects of the proposed development that would cause adverse impact on groundwater resources. In this regard:

- On-site effluent disposal will not occur. The residential development of the land requires effluent disposal to occur via connection to Council's sewer reticulation.
- The residential use of land does not normally involve the storage or disposal of large quantities of liquid waste or chemicals.

Clause 7.11 Essential services

Pursuant to Clause 7.11, 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 on-site conservation,
- e) suitable road access.

The proposed development will satisfy the requirements of this clause. The subject land has frontage to public roads and is connected to available urban utilities. Adjustment or augmentation of existing service connections will be in accordance with the requirements of the relevant supply authority.

4.1.2 State Environmental Planning Policy 55 – Remediation of Land

Clause 7(1) of SEPP 55 Remediation of Land provides that 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
- 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.

In terms of potential soil contamination, it is understood that an assessment was undertaken as part of the subdivision requirements that applied in relation to the creation of the subject land. Since its creation as a residential allotment, the subject land has remained vacant.

On this basis, it is understood that Council would not require further assessment in regard to potential site contamination.

4.2 PROVISIONS OF DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no known draft regional, state or local planning instruments that are likely to affect the subject land or proposed development.

4.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS

Orange DCP 2004-07 Development in Residential Areas is relevant to this proposal. The provisions of Part 7 are considered below.

4.3.1 Subdivision

The DCP sets the following (applicable) Planning Outcomes in regard to Urban Residential Subdivision:

- *Lots below 500m² indicate a mandatory side setback to provide for solar access and privacy*
- *Lots are fully serviced and have direct frontage and access to a public road*
- *Design and construction complies with the Orange Development and Subdivision Code*

This proposal satisfies the above Planning Outcome due to the following:

- Proposed Lots 1291 and 1292 depict the boundary setbacks for the proposed dwelling in each. As demonstrated in this report, the proposed lots will be of sufficient area to provide a satisfactory standard of residential amenity to the proposed dwellings in respect of solar access and privacy.

- The proposed development will be connected to Council's sewer, town water and stormwater reticulations in accordance with normal requirements. Power, telephone and natural gas services are available to the development in accordance with the requirements of the relevant supply authority.
- The subdivision design and construction will comply with the Orange Development and Subdivision Code.

4.3.2 Site Analysis

In accordance with Section 7.6 a Site Analysis has been provided in Figure 2 and the constraints and opportunities explained in *Section 2.5* of this report.

4.3.3 Neighbourhood Character

The DCP sets the following Planning Outcomes in regard to Neighbourhood Character:

- *Site layout and building design enables the:*
 - *Creation of attractive residential environments with clear character and identity*
 - *Use of site features such as views, aspect, existing vegetation and landmarks*
- *Buildings are designed to complement the relevant features and built form that are identified as part of the desired neighbourhood character.*
- *The streetscape is designed to encourage pedestrian access and use.*

This proposal satisfies the above Planning Outcomes due to the following:

- The site layout and building design is intended to create an attractive residential environment. In this regard:
 - The neighbourhood character in this release area is expected to comprise mostly contemporary, detached single-storey dwellings with landscaped front yards and separate driveways. The proposed development displays similar attributes and therefore remains consistent with the expected character of the neighbourhood.
 - The proposed development is not influenced or constrained by important views, vegetation or landmarks.

- The development has been designed to provide internal living areas and private open space areas with reasonable solar access.
- The dwellings adopt a building form and finish that is considered typical of residential development in the City’s newer northern residential areas. In particular, the proposed dwellings comprise the following elements to remain consistent with the expected development form:
 - Detached configuration
 - Hipped roof lines
 - Face brick external walls with timber cladding detail on front facade
 - Front door facing the street
 - Panel lift garage door facing the street
 - Bulk and scale commensurate with other dwellings
 - Landscaped front yards
 - Separate driveways
- Notwithstanding the modest increase in traffic movements (due to one additional dwelling), the proposal will not adversely impact on pedestrian access associated with the streetscape, due to the following:
 - Pedestrian movements are expected to be modest in this neighbourhood.
 - The reverse egress arrangements for the proposed dwellings will be consistent with those for single dwellings in this neighbourhood and throughout the City generally.
 - Adequate driver and pedestrian sight lines will be achieved so that vehicles entering and exiting the site are visible to pedestrians and vice versa.

4.3.4 Building Appearance

The DCP sets the following Planning Outcomes in regard to Building Appearance:

- *The building design, detailing and finishes relate to the desired neighbourhood character, complement the residential scale of the area, and add visual interest to the street.*
- *The frontages of buildings and their entries face the street.*
- *Garages and car parks are sited and designed so that they do not dominate the street frontage.*

This proposal can be demonstrated to be satisfactory in this regard due to the following:

- The external finishes (face brickwork walls; Colorbond roofing; and powder coated garage doors and window frames) are considered appropriate in this developing residential neighbourhood.
- Each of the proposed dwellings will address the street with a contemporary façade comprising windows, front entry door and porch. Landscaping is proposed as indicated in the landscape plan.
- The garages will not unreasonably dominate the respective street frontage due to the following:
 - Each garage is recessed in the front elevation of the respective dwelling.
 - The width of the garage door opening in each dwelling is less than 50% of the front elevation of the respective dwelling.
 - The garages are setback a minimum of 5.5 metres from the street boundary as encouraged by the DCP.
 - The frontage for each dwelling is to be landscaped.

4.3.5 Setbacks

The DCP sets the following Planning Outcomes in regard to Setbacks:

- *Street setbacks contribute to the desired neighbourhood character, assist with the integration of new development and make efficient use of the site.*

- *Street setbacks create an appropriate scale for the street considering all other streetscape components.*

As required by the DCP, the front boundary setback for each of the proposed dwellings will be a minimum of 4.5 metres.

The DCP allows corner allotments to adopt a 2-metre setback for the secondary boundary. Given that the proposed design of Dwelling 1 provides a front door and garage that face Scarborough Street, it is submitted that Miriam Drive and the splay would represent the secondary boundary in relation to Dwelling 1. In accordance with the DCP, Dwelling 1 is sited a minimum of 2 metres from the secondary boundary.

The garage for each dwelling complies with the minimum setback of 5.5 metres required by the DCP.

4.3.6 Visual Bulk

The DCP sets the following Planning Outcomes in regard to Visual Bulk:

- *Built form accords with the desired neighbourhood character of the area with:*
 - *Side and rear setbacks progressively increased to reduce bulk and overshadowing*
 - *Site coverage that retains the relatively low density landscaped character of residential areas*
 - *Building form and siting that relates to landform, with minimal land shaping (cut and fill)*
 - *Building height at the street frontage that maintains a comparable scale with the predominant adjacent development form*
 - *Building to the boundary where appropriate*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

- The proposed dwellings are well setback from the site boundaries to ensure that they will be contained within the visual bulk envelope (VBE) generated by planes projected at 45° over the site, commencing 2.5 metres above existing ground level from each side and rear boundary.

- Whilst Dwelling 1 is closer to the southern boundary, it will be sited in cut (at a lower ground level) and will therefore be contained within the VBE which applies to that boundary.
- Site coverage for the proposed development will not exceed the maximum 60% prescribed in the DCP for single dwellings:
 - Proposed Dwelling 1 will comprise a total building area of 212.61m². Based on the proposed site area of 477.5m² (proposed Lot 1291), site coverage will be in the order of 45%.
 - Proposed Dwelling 2 will comprise a total building area of 199.97m². Based on the proposed site area of 428.3m² (proposed Lot 1292), site coverage will be in the order of 47%.
- The slope of the land will require earthworks and retaining structures along the proposed common boundary and part of the western boundary adjoining Lot 211 DP1177178. Landscaping has been incorporated into the retaining walls to soften visual bulk.
- The proposed finished floor levels for Dwellings 1 and 2 relate reasonably to existing ground levels and are not expected to generate adverse impacts in respect of visual bulk, solar access or privacy.

4.3.7 Walls and Boundaries

The DCP sets the following planning outcomes in regard to Walls and Boundaries:

- *Building to the boundary is undertaken to provide for efficient use of the site taking into account:*
 - *The privacy of neighbouring dwellings and private open space*
 - *The access to daylight reaching adjoining properties*
 - *The impact of boundary walls on neighbours*

Building to the boundary is considered unnecessary in this case. As explained later in this report, the proposed dwellings would not unreasonably reduce the amount of daylight that reaches adjoining properties or unreasonably impact upon their privacy.

4.3.8 Daylight and Sunlight

The DCP sets the following Planning Outcomes in regard to Daylight and Sunlight:

- *Buildings are sited and designed to ensure:*
 - *Daylight to habitable rooms in adjacent dwellings is not significantly reduced*
 - *Overshadowing of neighbouring secluded open spaces or main living area windows is not significantly increased*
 - *Consideration of Council's Energy Efficiency Code.*

Overshadowing of Dwellings

According to the DCP Guidelines and Council's Energy Efficiency Code, sunlight to at least 75% of north-facing living-area windows within the development and on adjoining land is to be provided for a minimum of 4 hours on 21 June; or not further reduced than existing where already less.

The proposed development satisfies this aspect of the DCP. The shadow diagrams indicate that:

- The north facing living area windows in each of the proposed dwellings will achieve the required amount of direct sunlight on the winter solstice.
- The shadow diagrams indicate that shadowing on the adjoining property to the west occurs at the greatest effect only in the morning period (9:00am to 10:00am). As such, the development would meet the DCP requirements in regard to maintaining solar access to the private open space on adjoining land.
- The majority of the overshadowing is toward the south toward the roadways with no impact on adjoining residential properties.

Overshadowing of Private Open Space

According to the DCP Guidelines and Council's Energy Smart Homes Code, sunlight is to be available to at least 40% of required open space for dwellings within the development and on neighbouring properties for at least 3 hours between 9.00am and 3.00pm.

The proposed development satisfies this aspect of the DCP as follows:

- Overshadowing of private open space within the development itself is compliant with the DCP. The floor area is measured from the internal face of external walls and demonstrated on the site calculation table on Drawing DA1/14:
 - Dwelling 1 has a floor area of 159.05m² (excluding garage, porch and alfresco) and thus requires a private open space area of 79.5m². Forty percent (40%) of the required open space area is 31.8m². The shadow diagrams indicate that the area of direct sunlight will range from 31.07m² to 42.51m² between 11.00am and 2.00pm on 21 June.
 - Dwelling 2 has a floor area of 144.63m² (excluding garage, porch and alfresco) and thus requires a private open space area of 72.3m². Forty percent (40%) of the required open space area is 28.9m². The shadow diagrams indicate that the area of direct sunlight will range from 34m² to 61.3m² between 9.00am and 1.00pm on 21 June.
- The development would meet the DCP requirements in regard to maintaining reasonable solar access to the private open space of surrounding properties due to the following:
 - The shadow diagrams indicate that no shadowing impact will occur to the adjoining property to the north.
 - The shadow diagrams indicate that shadowing impact on the adjoining property to the west would be mostly gone by 11.00am so unlikely to affect any future development on this property.

Energy Performance Statement

BASIX/NatHERS certificates have been prepared (refer *Annexure C*). The proposed dwellings will comply with the relevant provisions in respect of water, thermal comfort and energy.

The proposed development is considered satisfactory in terms of *Council's Energy Efficiency Code* due to the following:

- Energy efficient influences in the design include northerly orientation of living areas; slab on ground; and only necessary glazing along the southern and western sides of the dwellings.

- Energy efficient influences in the landscape design include the provision of species or plantings with low water demand. All beds are recommended to be mulched.
- The appropriate star rated water saving devices will be installed.
- Rainwater tanks will collect roof water as an alternative water supply system.
- The hot water system for each dwelling will be of a type that achieves the star rating recommended in the BASIX certificate for each dwelling.

4.3.9 Views

The DCP sets the following Planning Outcomes in regard to Views:

- *Building form and design allow for residents from adjacent properties to share prominent views where possible.*
- *Views including vistas of heritage items or landmarks are not substantially affected by the bulk and scale of the new development.*

Being single-storey and with finished floor levels reasonably commensurate with existing ground level, the proposed dwellings would not unreasonably diminish views for other properties in the vicinity.

4.3.10 Visual Privacy

The DCP sets the following Planning Outcomes in regard to Visual Privacy:

- *Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:*
 - *Building siting and layout*
 - *Location of windows and balconies*
- And secondly by:*
- *Design of windows or use of screening devices and landscaping.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

Privacy within the Development

- The principal living room windows for proposed Dwellings 1 and 2 will overlook their respective private open space area and will not directly oppose each other.
- The proposed site levels assist to maintain privacy. Generally, the finished floor levels of the dwellings are reasonably commensurate with existing ground level and well below the DCP guideline of 1.5 metres above natural ground level at which point additional privacy measures should be implemented.
- The front door and garage for each dwelling are orientated so as to ensure that occupants achieve reasonable privacy when entering or exiting their residence.
- The retaining wall and proposed 1.8 metre Colorbond fence will limit the potential for overlooking between properties.

Privacy in relation to Neighbours

- Privacy in relation to the property to the west will be achieved as follows:
 - The dwelling on the property to the west is setback more 30 metres from the common boundary and is visibly screened by the existing shed and established vegetation.
 - The primary living areas for Dwelling 2 are orientated to the north east and away from the property to the west.
- Privacy in relation to the property to the north will be achieved as follows:
 - The existing Colorbond 1.8 metre fence along the northern boundary will break direct line of sight between the two properties and will have a height similar to the proposed eave height of Dwelling 2.
 - Proposed Dwelling 2 will be set at a lower finished ground level.
 - Whilst the alfresco area and glass sliding door for the living area of Dwelling 2 faces north east, these elements are well setback from the common boundary. Further, these do not oppose any similar elements associated with the dwelling on the neighbouring property.

4.3.11 Acoustic Privacy

The DCP sets the following Planning Outcomes in regard to Acoustic Privacy:

- *Site layout and building design:*
 - *Protect habitable rooms from excessively high levels of external noise.*
 - *Minimise the entry of external noise to private open space for dwellings close to major noise sources.*
 - *Minimise transmission of sound through a building to affect other dwellings.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

- The site is in an area where ambient noise levels are expected to be low due to the predominant residential land use pattern.
- The dwellings are detached, thus limiting the potential for sound penetration between them.

4.3.12 Security

The DCP sets the following Planning Outcomes in regard to Security:

- *The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.*
- *The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory in this regard due to the following:

- The proposed building design will offer reasonable opportunities for surveillance. The dwellings will have a front door and living room windows that address their respective street frontage, thereby providing effective passive surveillance from the dwelling to public areas.
- The site has reasonable access control. The lock-up garages with internal access will enhance security. The private open space areas will be fenced so as to provide a physical barrier for intruders.
- The proposed landscaping limits the opportunity for potential offenders to conceal themselves.

4.3.13 Public Transport

The DCP sets the following Planning Outcome in regard to Public Transport:

- *Residential unit development is accessible to public transport.*

The proposal is considered to be satisfactory in this regard. The subject land is located within an establishing urban residential area that is to be serviced by public bus routes.

4.3.14 Circulation and Design

The DCP sets the following Planning Outcomes in regard to Circulation and Design:

- *Accessways and parking areas are designed to manage stormwater.*
- *Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors.*
- *The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.*

The proposal is considered to be satisfactory in this regard, due to the following:

- A reverse exit will be required for each dwelling as is the case for the majority of new estate residential development throughout the City.
- The driveways will be located a sufficient distance from the intersection to avoid vehicle conflicts.

4.3.15 Car Parking

The DCP sets the following Planning Outcomes in regard to Car Parking:

- *Parking facilities are provided, designed and located to:*
 - *Enable the efficient and convenient use of car spaces and accessways within the site.*
 - *Reduce the visual dominance of car parking areas and accessways.*
- *Car parking is provided with regard to the:*

- *The number and size of proposed dwellings.*
- *Requirements of people with limited mobility or disabilities.*

Orange DCP 2004 – 15 Car Parking requires a dwelling to be provided with a minimum of 1 (but preferably 2) parking spaces. The proposal meets this requirement as each dwelling is provided with a double garage and tandem spaces in front of each garage if required.

4.3.16 Private Open Space

The DCP sets the following Planning Outcomes in regard to Private Open Space:

- *Private open space is clearly defined for private use.*
- *Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents including some outdoor recreational needs and service functions.*
- *Private open space is:*
 - *Capable of being an extension of the dwelling for outdoor living, entertainment and recreation.*
 - *Accessible from a living area of the dwelling.*
 - *Located to take advantage of outlooks; and to reduce adverse impacts of overshadowing or privacy from adjoining buildings.*
 - *Orientated to optimise year round use.*

The DCP Guidelines require open space to:

- Be provided at a rate of at least 50% of the gross floor space of each dwelling;
- Have a minimum dimension of 3 metres;
- Include at least one area with minimum dimensions of 5 metres x 5 metres directly accessible to a living area preferably orientated to the north or east of the dwelling;
- Be adjacent to dwellings and located behind the primary front wall of the dwelling; and
- Be allocated to individual dwellings where practicable to minimise the need for management and maintenance of communal open space.

The following table demonstrates that each of the proposed dwellings is provided with open space that complies with the minimum requirement in terms of area.

Dwelling	Living Area (ex. Garage, porches, patios etc) (m ²)	Private Open Space required by DCP (m ²)	Private Open Space Provided (m ²)
1	159.05m ²	79.5m ²	106.17m ²
2	144.63m ²	72.3m ²	112.68m ²

The site plan confirms that the private open space for each dwelling will have a minimum dimension of 3 metres and each yard will be able to provide an area of 5m x 5m.

As outlined above (see 4.3.8 Daylight and Sunlight) the solar access to each area of private open space on the winter solstice is considered satisfactory.

The internal living area for each dwelling will connect to its respective area of private open space via glass sliding doors and an alfresco area. Each private open space area will be enclosed by fencing.

The private open space for each dwelling will be located behind the primary front wall.

4.3.17 Open Space and Landscaping

The DCP sets the following Planning Outcomes in regard to Open Space and Landscaping:

- *The site layout provides open space and landscaped areas which:*
 - *Contribute to the character of the development by providing buildings in a landscaped setting.*
 - *Provide for a range of uses and activities including stormwater management.*
 - *Allow cost effective management.*

- *The landscape design specifies landscape themes consistent with the desired neighbourhood character; vegetation types and location, paving and lighting provided for access and security.*
- *Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, accessways and parking areas.*
- *Paving is applied sparingly and integrated in the landscape design.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

- Landscaping will be provided as indicated in the submitted site plan (Drawing DA1/14 Site Plan).
- The proposed landscaping includes species that are suitable to the Orange area with plantings that are of appropriate foliage and of intermediate and taller height to maximise screening and aesthetic appeal.

4.3.18 Stormwater

The DCP sets the following Planning Outcomes in regard to Stormwater:

- *On-site drainage systems are designed to consider:*
 - *Downstream capacity and need for on-site retention, detention and re-use.*
 - *Scope for on-site infiltration of water.*
 - *Safety and convenience of pedestrians and vehicles.*
 - *Overland flow paths.*
- *Provision is made for on-site drainage which does not cause damage or nuisance flows to adjoining properties.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

- The submitted landscape plan provides for garden beds and lawn areas which will assist with on-site infiltration.
- Preliminary engineering investigations indicate that easements to drain water over adjoining land will not be required.
- Stormwater from the development will be directed to existing drainage infrastructure.

4.3.19 Erosion and Sedimentation

The DCP sets the following Planning Outcomes in regard to Erosion and Sedimentation:

- *Measures implemented during construction to ensure that the landform is stabilised and erosion is controlled.*

In consideration of the DCP Guidelines, the proposal is considered to be satisfactory due to the following:

- An erosion and sediment control plan will be prepared as part of the engineering design plans for the development.
- It is acknowledged that a construction certificate will not be issued until Council is satisfied that adequate arrangements have been proposed/implemented in regard to management, stabilisation and revegetation of disturbed areas.

4.4 MATTER PRESCRIBED BY THE REGULATIONS

The Environmental Planning and Assessment Regulation 2000 prescribes certain matters that must be considered by Council in determining a development application. The following information is provided in respect of the prescribed matters:

Demolition of a Building (Clause 92)

Not applicable.

Fire Safety Considerations (Clause 93)

Not relevant.

Buildings to be Upgraded (Clause 94)

Not relevant.

BASIX Commitments (Clause 97A)

BASIX/NatHERS certificates for the proposed dwellings are attached at *Annexure C*. The proposed dwellings will satisfy the relevant provisions in respect of water, thermal comfort and energy.

4.5 THE LIKELY IMPACTS OF THE DEVELOPMENT

The potential impacts of the development are considered below.

4.5.1 Generally

The proposed development is unlikely to generate any impacts that would adversely affect the quality of the environment of the locality; particularly as such development is considered to be entirely consistent with the zone objectives and would achieve reasonable integration with the surrounding land use pattern.

4.5.2 Visual Amenity

The visual impact of the proposed dwellings is considered satisfactory and has been addressed above in the relevant considerations under DCP 2004.

4.5.3 Solar Access

As assessed above, the proposed dwellings are considered satisfactory in terms of solar access.

4.5.4 Traffic Impacts

The proposal is considered to be satisfactory in terms of traffic impacts due to the following:

- The proposal involves the creation of only 1 additional lot that is required to be serviced by the existing road system. The capacity of the local road network in the vicinity of the site is sufficient to cater for the minor traffic increase that would be generated by this proposal.
- The level of increase as a result of the development would represent only a minor proportion of the total traffic volume that the local road network is subject to.
- The access arrangements for each dwelling are satisfactory. Reverse egress is consistent with manoeuvring arrangements for the majority of street facing residential development throughout the city.

- Adequate driver and pedestrian sight lines can be achieved so that vehicles entering and exiting the site are visible to pedestrians and other vehicles and vice versa.
- The provision of adequate off-street parking will assist to maintain traffic amenity. Tandem parking spaces will be wholly located within the subject land.

4.5.5 Existing and Future Amenity of the Neighbourhood

The potential impact upon the amenity of the neighbourhood is considered satisfactory and has been addressed above in the relevant considerations under DCP 2004.

4.5.6 Soil Erosion

Provided that adequate measures are implemented during the construction phase, the proposed development would not generate adverse impacts in terms of soil erosion.

4.5.7 Cumulative Impacts

The proposal is considered to be satisfactory in terms of cumulative impact due to the following:

- The development pattern for the area is yet to become established.
- The design and detailing of the dwellings will complement the expected neighbourhood character. The proposed external finishes, bulk and form of the dwellings are considered typical of development in the newer residential areas throughout Orange.
- The proposed development will not reduce the open space, solar access or privacy afforded to neighbouring properties. Similarly, the site layout and building design will provide a reasonable standard of residential amenity to the proposed dwellings in terms of open space, solar access and privacy.
- Landscaping will be established for both dwellings and is expected to complement future private landscaping in the streetscape.

- As outlined previously, the proposal is considered satisfactory in terms of traffic impact and amenity.
- The proposal provides for a continuation of residential land use, albeit in a more compact form. A variation in housing forms and choices is encouraged by Orange DCP 2004 and Orange LEP 2011.

4.6 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

4.6.1 Physical Attributes

As indicated in *Section 2.5* of this report, there are no aspects of the site that would suggest that it is not suitable for the proposed development.

4.6.2 Servicing

The proposed development will be connected to Council's sewer, town water and stormwater reticulations in accordance with normal requirements.

Power, telephone and natural gas services will be connected to the development in accordance with the requirements of the relevant supply authority.

General waste, green waste and recycling for each dwelling will be collected from the site frontage of each dwelling as part of Council's kerbside service.

4.7 SUBMISSIONS IN ACCORDANCE WITH ACT OR REGULATIONS

According to Council's *Community Participation Plan* the proposal represents Advertised Development. As such, Council will invite and consider submissions on the proposal.

4.8 THE PUBLIC INTEREST

The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts.

The proposal is not inconsistent with any known Local or State planning policy, code or guideline that has not been considered in this assessment.

CONCLUSION

The proposal as submitted could be supported on the following grounds:

- The proposal is a permissible use in the zone and generally complies with the relevant provisions of Orange LEP 2011.
- Clause 4.6 of the LEP provides a mechanism for discretion to be exercised in making sound planning decisions based on the merits of individual cases. Based on the formal request provided in *Annexure D*, the creation of proposed Lots 1291 and 1292 is considered to represent an acceptable planning outcome despite not adhering to the MLS development standard.
- Assessment of the proposal pursuant to *Orange DCP 2004 – 7 Development in Residential Areas* demonstrates that the development would satisfy the relevant Planning Outcomes.
- The proposal is considered to be acceptable in terms of Section 4.15 of the Environmental Planning and Assessment Act, 1979. Appropriate conditions may be imposed to ensure the development proceeds in accordance with Council's normal requirements.
- There are no aspects of the development that warrant refusal of the application.

We trust that this application will be given favourable consideration by Council. Any further enquiries may be directed to our office on 6361 2955.

Yours faithfully

Peter Basha Planning & Development

Per:

PETER BASHA