

Orange LEP 2011 Administrative amendments and strategic urban land releases

Proposal Title : Orange LEP 2011 Administrative amendments and strategic urban land releases

Proposal Summary : Amendment to the Orange LEP 2011 including the rezoning of land for residential purposes in accordance with an endorsed strategy, assessment of demand and supply; correction of drafting anomalies concerning dual occupancies, insertion of a clause permitting subdivision for intensive plant agriculture, amendment to maps for airport runway extension and update to heritage schedule following preparation of a community heritage study.

PP Number : PP_2013_ORANG_003_00 **Dop File No :** 13/03118

Proposal Details

Date Planning Proposal Received : 31-Jan-2013 **LGA covered :** Orange

Region : Western **RPA :** Orange City Council

State Electorate : ORANGE **Section of the Act :** 55 - Planning Proposal

LEP Type : Policy

Location Details

Street : *****

Suburb : Various **City :** Orange **Postcode :** 2800

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : Nita Lennon

Contact Number : 0268412191

Contact Email : nita.lennon@planning.nsw.gov.au

RPA Contact Details

Contact Name : Craig Mortell

Contact Number : 0263938036

Contact Email : cmortell@orange.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : N/A **Release Area Name :** N/A

Regional / Sub Regional Strategy : N/A **Consistent with Strategy :** Yes

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MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	790	No. of Dwellings (where relevant) :	790
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			
Have there been meetings or communications with registered lobbyists? :		No	
If Yes, comment :			

Supporting notes

Internal Supporting Notes :

The PP submission from Council included Candidate Area No 9, which was not recommended (by staff) for inclusion in this PP/draft LEP on account of its premature nature and the lack of planning justification. The land comprises 756ha located in southern rural Orange (abutting the water catchment and Mount Canobolas in the southern - south-western extremities) and would result in potentially 6500 lots at full urban density or approx 174 x 2 ha lots. It was included as a basic 'lifestyle lot' precinct, in other words, without provision of infrastructure and services such as water and sewer.

Council staff noted in their reporting that rezoning this area for lifestyle lots would both oversupply that sector of the market and effectively eliminate an important future expansion corridor, requiring Council to search for an alternative area, possibly beyond the LGA boundary. The area is currently used for small lot agricultural pursuits, with some instances of former concessional lot (rural residential) development.

It was initially not clear from Council's planning proposal if this land was included or not, as there was a resolution from the Sustainable Development Committee meeting in 9 November 2012 for staff to 'develop a plan for blocks of various sizes that may suit the terrain in the residual of Site 9, for consideration at a later date', and that 'the residual of site 9 be excluded from the Amendment, as it is not required to achieve the desired supply level and would result in unnecessary alienation of agricultural land'.

Discussions with staff indicate that Council at the full meeting on 20 November 2012 decided to include the north eastern part of the subject Candidate Area 9 as Candidate Area '9a' and combined it with Candidate Area 8, with mapping in support. The particular area of land in the 9a portion is known as a 'long term' requirement in the Orange Sustainable Settlement Strategy, with the remainder of Area 9 not being required for the life of the plan, 2036.

Candidate Area 9 was included as the result of one submission from several land owners requesting the site be rezoned from RU1 to allow '5 acre' or 2 ha lots. Candidate Area 9a was included as an opportunistic attempt to rezone land.

It is noted that the rezoning and subdivision of Candidate Area 9 would be premature and to adopt a no-infrastructure low density subdivision pattern would preclude master planning at a later date. Combined with the potential oversupply of this style of development, it is being recommended that this land not be included in the PP.

Therefore, the PP applies to the following Candidate Areas mentioned in Council's report Dated 9 November 2012:

Candidate Area 1 (Phillip Street, East Orange, R5 zoned to R2, yield 105 lots)

Candidate Area 2 (Daydawn Place, East Orange, R5 zoned to R2, yield 30 lots)

Candidate Area 8 (South Orange, bounded by railway line, Towac Park and Pinnacle Road, rezoned from R5 to R2, yield 710 lots)

Candidate Area 10 (Burrendong Way, North Orange, already zoned R2, amendment to MLS to 1000m2, yield 134 lots)

Candidate Area 11 (Waratahs, North Orange, rezone from RE2 to R2, yield 16 lots)

Total lot yield: 995

Other matters dealt with by the plan are:

Update to Heritage Schedule following the preparation of a Community Based Heritage Study

Orange Airport extension - amendment to maps to facilitate the extension of the runway (SP2) into surrounding RU1 land

Amendment to instrument to include the a settled clause 4.2B Rural subdivision for intensive plant agriculture to facilitate the creation of lots for the purpose of intensive plant agriculture in the RU1 zone; the necessary amendment to Clause 4.2A would follow.

Amendment to a clause permitting the subdivision of dual occupancies in residential zones, where the OLEP currently requires 1250m2, and it was always intended that 1200m2 be the minimum requirement.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The Statement of Objectives is comprehensive and describes each part of the proposed amendment in relation to the proposed changes to the instrument and maps. A complete set of maps has been provided reflecting Council's resolution.

The objectives of the PP are as follows:

To provide for a diversity of housing opportunities through amendment of the Lot Size, Urban Release Area and Land Zoning Maps; To provide for additional urban residential opportunities and infill development in proximity to existing and planned infrastructure;

To amend the Lot Size Map to correct a mapping anomaly relating to the Ploughmans Valley wetlands; amend the Minimum lot size for various Candidate Areas.

To facilitate the planned expansion of the Orange Airport (amend the Land Zoning Map and Lot Size Map to allow for the planned expansion of the Orange Airport;

To amend Schedule 5 and the Heritage Maps to provide for additional heritage conservation items, an additional heritage conservation area and alteration to an existing heritage conservation area;

To rectify unintended consequences with regard to dual occupancies in Ploughmans Valley by amending clause 4.1B to include the area 1200m2 instead of 1250m2;

To provide flexibility in the extent of rural subdivision to appropriately cater for intensive plant agriculture by inserting a clause permitting subdivision of land in rural and environmental protection zones below the MLS of the purpose of intensive plant agriculture,

To introduce a new provision to ensure that all subdivision of land is or will be provided with essential services.

To rezone land near the Orange Airport to accommodate the extension of the airport.

Information in relation to a proposed residential releases:

Council's report goes to some length to assess the available land for residential release, estimating that there is approximately 8.7 years of land zoned yet to be subdivided and a further 4.8 years worth of lots waiting to be constructed and released (at urban densities). Further advice that there are at least 195 lots either under construction or available now, equating to 0.81 years supply. This brings the total estimated supply to 14 years. This is due to recent strength in the residential market in Orange. The perception of 'scarcity' in the residential market has led Council to consider options for releasing land. It should be noted, apart from Candidate Area 9, all release areas are already zoned for some form of residential development (R2 and R5). The areas are described as follows:

Candidate Area 1 - Bounded by the Northern Distributor Road, Phillip Street and Ophir Road to the north east of Orange, an area already zoned R5, proposed to be zoned R2 to allow infill development. 32.7ha with approx 81 lot yield at 4000m2. In accordance with approved strategy.

Candidate Area 2 - Daydawn Place to north east of Orange, 21 ha. Proposed rezoning from R5 to R2, lot yield potentially 10 lots.

Candidate Area 3 - not recommended or included

Candidate Area 4 - removed after community representations

Candidate Area 5 - not recommended or included

Candidate Area 6 - not recommended or included

Candidate Area 7 - not recommended or included

Candidate Area 8 - Site currently zoned R5 (and some minor areas of RE1 & RE2) consists of 44 lots in South Orange bounded by the Railway line to the north, Towac Park racecourse and Pinnacle Road to the West. The future Southern Distributor Road is to the south (Park Road) and the rifle range to the east (RE2). A high school campus is in the north eastern part of the precinct. The current subdivision pattern consists of 2ha lots and most appear to be developed with a single dwelling house. The site is part of a strategically identified (medium to long term) urban release area. Council advises that "the site is being considered in view of the development pressures occurring to the South of Orange. The new Bloomfield Base Hospital and emerging health precinct, DPI land (and approved 550 lot residential rezoning) exist to the east of the site. The site is readily servicable with both reticulated water and sewer...". The land is considered to be an "appropriate opportunity" to supplement urban land to achieve a 20 year supply pipeline (currently in the order of 10-12 years). Potential yield assuming a split of 4000m2 and 800m2 lots could provide 531 urban lots and 33 lifestyle blocks, a net yield of 522 lots. It is proposed to rezone the site to R2 Low Density Residential, with a prevailing MLS of 800m2 with lots along the Southern Distributor Road with a MLS of 4000m2.

Candidate Area 9 - Recommended against, but included by Council. Consists of RU1 zoned land consisting of 756.6 ha, located to the south of Orange and was included in the PP against staff advice due to the excessive release outcomes, long term strategic urban residential requirements and lack of justification provided for the rezoning of rural land.

The land is generally currently used for productive agriculture and is identified as not

being generally required until after 2036 in Council's Orange Sustainable Settlement Strategy (updated 2010). The land was included as the result of a submission requesting rezoning to 5 acre lots. The site is identified as long term beyond the life of the plan for the western half, with the eastern side nominated as a 'medium-long term' development frontier. Council staff advised that the rezoning of the land as requested would result in a significant oversupply of land; similarly the rezoning for lifestyle blocks would result in oversupply and jeopardise the future master planning of the precinct. The subject land if developed would yield in excess of 6492 lots of varying sizes.

Candidate Area 9 is therefore regarded as premature, and Council staff advised that there has been no environmental assessment or assessment of infrastructure to support the inclusion of the land. It was suggested by Council that the lack of infrastructure in the locality led to the submission requesting 'stand alone' rural lifestyle lots to circumvent servicing.

The Blayney-Cabonne-Orange Rural and Industrial Lands Strategy 2008 (endorsed by the DG in 2011) recommended that Orange is best placed to supply the smaller lot style lifestyle development with new residential releases to occur to the north of Orange, and longer-term 'rural residential' development provided by Cabonne and to a lesser extent, Blayney.

Council's report notes that a report prepared in 2012 titled 'Rural Residential Update 2012' found that the Orange LGA should provide smaller lot sizes partly on the basis that this will diversify the range of lot sizes within the market, partly as a more efficient use of available land within proximity to Orange and partly in recognition that the neighbouring shires would have significant difficulty in providing reticulated sewer to such estates. Lifestyle blocks are regarded as an inefficient use of land, which generally provide a lower return on infrastructure, investment and maintenance."

It is being recommended that for the purposes of this Planning Proposal, Candidate Area 9 be omitted. It is recommended that Orange City Council carry out investigations to determine the staging and release of land in this Candidate Area. This land may be considered in the future if demand is expressed.

Council staff has advised that during the preparation of reporting for this PP, Council resolved to include part of Candidate Area 9 (nominated as med-long term future needs by the Council's Orange Sustainable Settlement Strategy) in Candidate Area 8. This is not being supported due to the fact the land is situated beyond the hard edge offered by the proposed southern distributor road and is currently being used for intensive agriculture, such as viticulture. The potential residential supply afforded by Candidate Area 8 and the DPI land to the east (undeveloped, zoned with 550 urban residential lot yield) in this locality is deemed adequate for the development 'pipeline'.

It should be noted that this parcel of land was nominated for inclusion by the same land owner during the late stages of SI LEP preparation in 2011, which was rejected by the Department. The land was included as a means of testing the integrity of the State government's Part 3A approval of residential subdivision of the DPI site nearby.

Candidate Area 10 - zoned R2 with a 2ha MLS; located on the north western corner of the Northern Distributor Road and Burrendong Way in North Orange, approximating 19ha. The land is identified as appropriate for intensification of density due to the development of the north Orange shopping centre on the Northern Distributor Road nearby and the strategic release of other land for residential development adjacent (west) in this location over the past few years. It is proposed to change the MLS to 1000m². This will give an approximate 134 lot yield. (Note Council's report suggest rezoning to R2, land is already R2 on Sheet LZN_007B)

Candidate Area 11 - known as the 'Waratahs' site, located in North Orange off the Northern

Distributor Road and adjacent to the North Orange shopping centre on Telopea Way (Part 3A), is zoned RE2, approximately 18ha in area with a 16-18 lot yield. Potential issues with the site are related to the fact that it is currently private open space, used as a football field. It is proposed to assign an MLS of 800m2 to the site and rezone to R2 Low Density Residential.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions is as follows:

Amendment of the LSZ map series to reflect new releases/increased densities as agreed

Amendment of the LZN map series to reflect new releases (particularly rezoning land from R5 to R2)

Amendment of the Heritage map series to include new items

Amendment of the Urban Release Area Map in accordance with new urban release areas

Amendment of the OLEP 2011 Instrument to amend column 3 of the table to clause 4.1B in relation to dual occupancies in Zone R2 Low Density Residential to insert the number 1200m2 instead of 1250m2;

Amendment of the OLEP 2011 Instrument to reflect changes to Clause 4.1C concerning subdivision of dual occupancies in the Ploughmans Valley area zoned R2.

Amendment of OLEP 2011 instrument to insert the 'intensive ag clause' for the subdivision of land in the RU1 zone to a minimum of 25 ha, subject to a range of tests.

The insertion of the related 'dwelling' component of the intensive ag clause to permit dwellings on lots no less than 25 ha where the land 'is being or will be' used for intensive plant agriculture;

The insertion of a local provision (Part 7) regarding Essential services

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.1 Residential Zones

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Council has advised in its opinion the proposed amendment is consistent with section 117 Directions and SEPPs.

All of the land being recommended for inclusion in this PP is currently zoned for urban purposes. Candidate Area 9 is zoned RU1 and while although a long term strategic option, is being recommended for exclusion from this PP.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping needs to be amended further to that proposed following deliberation on the merit of the Candidate Areas for residential development.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **28 days**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **February 2012**

Comments in relation to Principal LEP : **First 'major' amendment of the LEP. Council notes that Orange LEP 2011 was largely a 'conversion' exercise, rather than a land release program. It is also noted that apart from the DPI site (550 lots), there has not been a significant land release for residential purposes. The current proposal will release**

A minor spot rezoning has been determined [to proceed] by the Gateway recently.

The first amendment to Orange LEP 2011 was commenced before the LEP was notified in February 2012, through the preparation of the Community Heritage Study and the receipt of submissions asking for rural land to be zoned for urban uses. It was decided not to delay the comprehensive LEP process with 'late' amendments. Council has accumulated a number of amendments which are largely administrative, but also to rezone 'low density' land for higher density residential development in response to a housing 'boom' in Orange.

Assessment Criteria

Need for planning proposal : **A PP is the only way to effect the desired changes to the instrument and maps. The release of (infill) residential land is only available through amendment to the maps (LZN, LSZ, URA); the extension of the Orange Airport requires amendment to the LZN and LSZ maps accordingly; the anomaly of the mapping involving the Orange Wetlands in Ploughmans Valley requires amendment to the LSZ map; The Heritage maps need to be amended to cater for inclusion of new items following the preparation of the Community Heritage Study.**

The Orange LEP instrument needs amendment to insert the additional heritage items, correct anomalies in relation to the Ploughmans Valley (dual occupancy provisions); the insertion of the 'intensive plant agriculture' clause facilitating the subdivision of land zoned RU1 to a lower MLS to cater for legitimate intensive plant agricultural undertakings, and the insertion of a new Local Provision specifying the need for essential services.

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Consistency with strategic planning framework :

Generally consistent. The exclusion of the Candidate Area 9 (in entirety) is a more desirable position in that no RU1 zoned land is being rezoned, only land that is zone R5 and R2. Therefore, without the portion of land known as Candidate Area 9 (south Orange, south of the proposed Distributor Road), the draft plan/PP is consistent with the endorsed strategy.

Environmental social economic impacts :

It is unlikely that there would be impacts on sensitive lands as a result of the PP. Land that is already zoned and developed (with the exception of the airport, which is in the process of development) is being upzoned with the intention of permitting higher residential densities. Sites have been selected to avoid conflicts with ecologically sensitive lands.

Therefore there are no adverse environmental effects anticipated as a result of the PP.

The PP will improve the range and density of housing opportunities around Orange in a timely manner, in other words, land in the 'development pipeline' will be made available for staging in the future, released in accordance with demand.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 Month	Delegation :	RPA
Public Authority Consultation - s56(2)(d) :	Essential Energy Ambulance Service of NSW Central West Catchment Management Authority Department of Family and Community Services Department of Education and Communities Office of Environment and Heritage Family and Community Services - Housing NSW NSW Department of Primary Industries - Agriculture NSW Department of Primary Industries - Minerals and Petroleum Department of Trade and Investment Transport for NSW Office of Environment and Heritage - NSW National Parks and Wildlife Service Fire and Rescue NSW NSW Police Force NSW Rural Fire Service Transport for NSW Transport for NSW - RailCorp Transport for NSW - Roads and Maritime Services State Emergency Service Telstra Adjoining LGAs		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			
Resubmission - s56(2)(b) :	No		
If Yes, reasons :			
Identify any additional studies, if required. :			
Other - provide details below			

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If Other, provide reasons :

Council has consulted with relevant airport authorities as part of the airport extension. There is no requirement to consult further on this matter. Adjustments to the planning maps and instrument can follow the work done on this matter.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **New infill residential opportunities will be subject to Part 6 of the LEP and the Urban Release Area Maps need to be amended accordingly.**

Documents

Document File Name	DocumentType Name	Is Public
SDC - 20 November 2012 - Minutes.docx	Proposal	No
sdc - 20 november 2012 - orange lep 2011 - amendment 1.docx	Proposal	No
sdc - 20 november 2012 - planningproposal - orange lep 2011 - amendment....docx	Proposal	No
Orange CBHS May2012.pdf	Study	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 3.1 Residential Zones**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**

Additional Information :

- 1. The Planning Proposal should proceed generally as submitted by Council with the exception of Candidate Area 9, and 9(a). This area is regarded as excessive and will result in the non-strategic release of rural zoned urban land.**
- 2. Prior to undertaking public exhibition, Council is to amend the planning proposal to remove the Candidate Areas 9 and 9a. A copy of the revised planning proposal and maps should be forwarded to the Department for information purposes.**
- 3. Council is to ensure that the Candidate Area 8 of the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land. If required, Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning. This report is to be included as part of the public exhibition material.**
- 4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 (EPAA) as follows:**
 - (a) The planning proposal must be made publicly available for 28 days; and**
 - (b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012).**
- 5. Consultation is required with the following public authorities under Section 56(2)(d) of the EPAA:**
 - Essential Energy**
 - Ambulance Service of NSW**
 - Central West Catchment Management Authority**

Office of Environment and Heritage
Department of Family and Community Services
Department of Education and Community Services
Family and Community Services - Housing NSW
Department of Trade and Investment
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
Fire and Rescue NSW
NSW Police Force
NSW Office of Water
Transport for NSW
RailCorp
Roads and Maritime Services
State Emergency Services
Telstra
Adjoining LGAs (Blayney and Cabonne)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. A public hearing is not required to be held into the matter by any person or body under Section 56(2)(e) of the EPAA. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7. The timeframe for completing the LEP is to be 12 months for the week following the date of the Gateway determination.

Supporting Reasons :

1. Candidate Area 9 (and 9a) is used for productive agricultural land uses and is not required to satisfy urban demands at this stage. It is not appropriate to release this land without investigation into the availability of services and infrastructure or land suitability or capability. Other land releases in the locality will supply adequate land for urban density development in the short to medium term. This land has future urban uses.

2. As above

3. To ensure that the subject land is not affected by contaminants which would preclude rezoning for residential uses.

4. To ensure appropriate community consultation is achieved.

5. To ensure the views of public authorities are provided and incorporated into the Planning Proposal process.

6. Public hearing is considered to be necessary.

7. To allow an adequate timeframe to complete the Planning Proposal.

Signature:



Printed Name:

Daniel Wagner

Date:

15.02.2013