

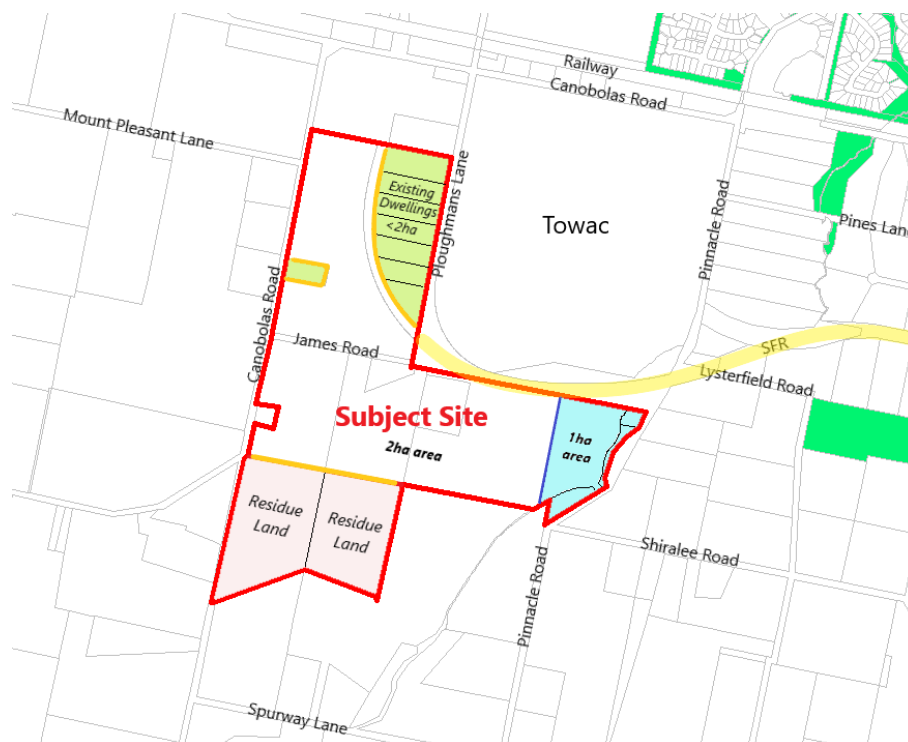
## 2.1 ORANGE LOCAL ENVIRONMENTAL PLAN 2011 - AMENDMENT 17 'TOWAC EQUINE PRECINCT'

RECORD NUMBER: 2018/1922

AUTHOR: Craig Mortell, Senior Planner

### EXECUTIVE SUMMARY

At its meeting of 3 April 2018 Council considered a planning proposal to establish an Equine Precinct on land in the vicinity of Towac Racecourse. The intention is to enable development of the subject land as an 'Equine Precinct' that would allow creation of mainly 2ha+ lifestyle lots, with four lots proposed below 2ha that are located on the eastern end of the subject land. The nominated site also includes seven existing residential properties on the western side of Ploughmans Lane and another on the southern side of James Road that are already below the 2ha benchmark.



The estate is principally intended for horse owners and enthusiasts, and seeks to leverage the proximity of Towac Park. This has the support of Racing Orange, which views the concept as consistent with their efforts to diversify Towac Park into a multi-purpose equine use facility.

Initially the proposal lacked detail on how to ensure the lots would be taken up by horse owners rather than generic large lot residential development. Additionally, the route of the Southern Feeder Road (SFR) needed to be better considered, with appropriate means to segregate horse and vehicular traffic. Council resolved to provide in principle support, subject to these matters being addressed and returned to Council for further consideration.

**LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan strategy “7.1 Preserve - Engage with the community to develop plans for growth and development that value the local environment”.

**FINANCIAL IMPLICATIONS**

Nil

**POLICY AND GOVERNANCE IMPLICATIONS**

Nil

**RECOMMENDATION**

- 1 That Council support sending the planning proposal to the NSW Department of Planning and Environment for a Gateway determination, subject to the proposed 1ha area being amended so as to also be set at 2ha.
- 2 That, subject to any Gateway condition requirements, Council place the planning proposal on public exhibition for a period of 28 days.
- 3 That Council include the draft Development Control Plan provisions relating to Animal Boarding or Training Establishments with any public exhibition of the planning proposal.
- 4 That subsequent to the public exhibition process, Council consider whether to exclude any specific properties from the planning proposal.

**FURTHER CONSIDERATIONS**

The recommendation of this report has been assessed against Council's other key risk categories and the following comments are provided:

Political	The Southern Feeder Road (and the Northern Distributor Road) were originally conceived of as forming a ring road around Orange. This was later modified when a section of the route parallel to Ploughmans Lane was abandoned, due in part to significant resident objection. In more recent times Council has considered and rejected relocation of the Orange Showground to Towac as part of a combined facility model.
Environmental	The proposed lot sizes of 2ha do not typically require provision of reticulated sewer/water. However, the vision of an equine precinct suggests that generation, management and disposal of horse manure could become significant.
Health and Safety	Creation of an equine estate straddling the Southern Feeder Road requires separation of horse and vehicular traffic for the safety of both horse riders and motorists. Additionally, race meetings will continue to draw traffic from beyond the immediate area. Clear messaging to alert such motorists to the presence of horse riders will be needed in order to help calm traffic and reduce the risk of alarming horses.

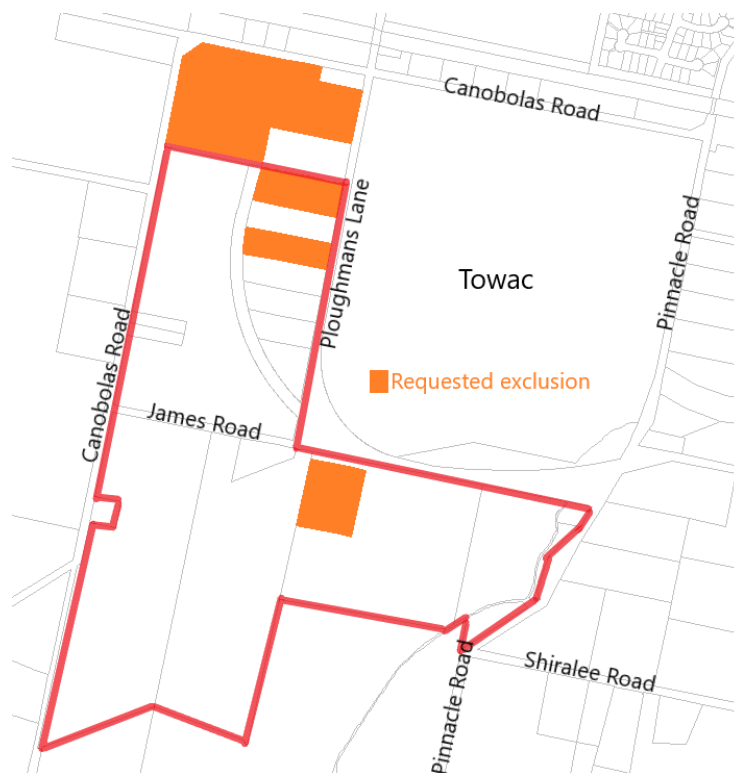
Stakeholders	<p>Racing Orange was formed in 2011 after discussions between Racing NSW and Orange City Council aimed at reinvigorating the sport at Towac Park. Additional horse owners in the vicinity are likely to reinforce this objective. Managing expectations between horse owning residents and the broader racing community will be important.</p> <p>Some landowners along Ploughmans Lane within the nominated area have expressed a desire to be excluded from the proposal and allowed to remain as they currently are.</p>
Projects	<p>The route of the Southern Feeder Road traverses the precinct. Potential conflict between traffic volumes/speeds and horse movements to and from Towac Racecourse needs to be carefully managed. Potential solutions such as forming an underpass or similar are likely to be required - a preliminary design and costing for this option has now been provided.</p>

### SUPPORTING INFORMATION

Popular in the United States since they emerged in the 1970s, an Equine Precinct concept (also known as an equestrian community or horse community) is a planned community where people live with horses on their property within a rural or suburban context. Typically such a community would have access to a range of facilities, such as shared trails and bridal paths for pleasure riding through to equestrian arenas, and veterinary hospitals on or near the site. Shared communal stables are sometimes provided, particularly for estates with smaller lot sizes. While there are fewer examples in Australia (such as Mornington in Victoria and Kembla Grange in Wollongong), a local landowner has expressed interest in exploring the concept, particularly given the proximity of their land to the Towac Park racecourse.

The landowner has also gained the support of some surrounding residents in response to a staff request for this to occur. However, some landowners (shown below) in Ploughmans Lane, whose land is already of a size that would preclude any subdivision potential, have expressed a desire to be excluded from the proposal. These landowners wish to remain in their current zoning so as to avoid creating a perception in the market that their homes can only be bought or sold by horse owning households.

Exclusion of the relevant section of Ploughmans Lane can be achieved and would not undermine the equine precinct concept. A final decision on whether to include or exclude all properties within the subject land can be reserved until after a Gateway determination and formal public exhibition period. This would ensure that all landowners have the opportunity to review the full concept and seek independent advice. Ultimately, even if some or all of the Ploughmans Lane properties were to be removed from the proposal, some additional attention to buffer areas may be appropriate, but it would not be fatal to the concept.



The proposal before Council has not indicated any particular horse related embellishments within the estate other than provision of a shared vehicle/bridal laneway that is intended to bring horse riders to a single underpass crossing point with the Southern Feeder Road (SFR) route. Beyond this, the proposal relies upon facilities at Towac Park to provide the attraction to horse owners. The support of Racing Orange is therefore a key endorsement for the viability of the concept.

The nominated lot sizes of 2ha would be sufficient for property owners to erect modest stables and some room to graze. However, with the proximity to the urban area of Orange consideration needs to be given to how such an estate can successfully avoid a potential land use conflict between horse owning residents and more generic 'lifestyle' residents who may seek to buy into the estate and find some horse related odours objectionable.

### Supply and Demand

Rural residential sales data supplied by the proponent indicates that the market share of large lot residential blocks has risen from approximately 5% to as much as 25% in recent years (2014-April 2017). The proposal notes that the available supply of such lots is tightening, with limited supply remaining at Silverdown Way, Clifton Grove, Mullion Creek or Windera.

The proposal includes an indicative layout for a total of 34 lots. This includes 13 existing dwellings, leaving a prospective yield of 21 new lots. This equates to approximately 2/3 of the number sold in 2016 and less than 1/2 of the number sold in 2015. However, it should be noted that most large lot residences in Orange are not held by horse owners. Therefore the estate is likely to represent a greater supply level if limited to the equine subsector.

### Southern Feeder Road

In the 1980s Council planning established a route for a ring road all the way around the City, however development in Ploughmans Valley later resulted in part of the route along the western side of the City being deleted. The remaining sections of the route became known as the Northern Distributor Road (NDR) and the Southern Feeder Road (SFR). Of the two, the NDR is intended to provide the primary route for through-traffic, while both roads also provide a major route for moving local traffic around the City. Location of the new hospital in Forest Road and the growing medical precinct in that area will increase the significance of the SFR for both internal and external traffic.

The current zoning for the SFR route (shown in yellow below) ends at the southern end of Ploughmans Lane.



The unformed James Road covers part of the route, while the western end of James Road may provide a connection further west to Canobolas Road. This planning proposal requires consideration of the long term future of the SFR and its role in the local traffic planning.

Presently the zoned route terminates where it meets Ploughmans Lane. This implies that traffic from the western side of the City is likely to use Ploughmans Lane as a connection through to the hospital/medical precinct on Forest Road. It would also be possible to extend the corridor through James Road to Canobolas Road, after which a further route could be investigated to ultimately link with Cargo Road.

### SFR Traffic Noise

Creation of an underpass for horse traffic to and from Towac would involve installation of a box culvert across the route, with the SFR to be ramped up and over the culvert. This would elevate SFR traffic for a short section compared to natural ground level. Therefore design of this section of the SFR may, dependent on anticipated traffic volumes, require a noise barrier along one or both sides to limit acoustic impacts.

**Traffic Generation Generally**

The creation of 21 additional lots is unlikely to generate significant volumes of localised traffic. The equine aspect of the proposal may result in some additional movements for delivery of feed and transport of horses, but this is still expected to be well within the capacity of the local road network, especially given that the site will connect directly to the SFR corridor.

The concern with the development as proposed is the conflict between traffic and equine activities needing to cross the SFR corridor, either on Ploughmans Road or James Road. In order to ensure public safety for both activities, a suitable equine crossing, such as a cut and cover tunnel, would be required as part of the development conditions.

**Water Supply and Sewerage Servicing**

The proponent initially suggested connecting wastewater from the estate to a package sewage treatment plant within Towac Park that could then use the treated effluent to irrigate the racecourse area. Council's Water and Sewerage Strategic Manager did not support this concept for a number of reasons:

- increased operational maintenance costs associated with owning the asset;
- ongoing compliance requirements associated with potential water quality and odour issues when operating such a treatment system;
- public health and environmental risks associated with using treated effluent for irrigation purposes at the racecourse; and
- the availability of other, more efficient servicing options.

The proposal was then amended from that originally proposed and seeks a minimum lot size of 2ha for most of the land. Council's policy is that large lots of 2ha and above do not require reticulated sewer or water and are generally suitable for onsite waste management.

A small portion to the eastern end of James Road was proposed to be set at 1ha in size. Council's ability to service these lots would be limited in the short to medium term until such time as the Shiralee area is more fully developed. Diverting resources to enable a one property owner to achieve three extra lots is not considered to be a reasonable use of public funds. Therefore it is recommended that Councils support for the proposal be contingent upon all of the rezoned area (other than the residue area to the south) being designated as a 2ha minimum lot size.

This can be revisited in the future once development of the Shiralee area is more progressed which may create opportunities for services to reach this area in a more efficient manner.

**Social and Economic Impacts**

The provision of a precinct aimed specifically at one demographic may be regarded by some as exclusionary. However, Council has periodically received enquiries and applications related to being able to keep horses domestically on large lots in other estates such as Clifton Grove and Silverdown Way. Providing a dedicated estate for the horse owning community would reduce the risk of horse related complaints from non-horse owners - admittedly such complaints have been minimal.

The proponent has now included a set of draft DCP provisions for horse related Animal Boarding or Training Establishments. If adopted these provisions will enable Council to



provide consistent guidance to all horse owners within the LGA, not just those within a dedicated equine precinct, to reduce and manage potential impacts to neighbours.

### **Ecological Impacts**

The subject land is not identified as possessing any significant ecological features or remnant habitat. As such, there are not expected to be any negative impacts. DCP provisions have been drafted and include a requirement for a minimum of one shade tree. Along with optional windbreaks this may enhance the level of vegetation and provide some incidental benefit to birdlife and small invertebrates.

### **Management of Waste (horse manure)**

The number of horses that would be anticipated is unlikely to be significant. As an example, the Wollongong DCP governs the development of Kembla Grange. It suggests that horse paddocks of 2,000m<sup>2</sup> per horse in area are generally sufficient to avoid over grazing - especially where supplemental feeding is provided. Any excessive horse manure production, although unlikely, could be sold into the local gardening market. Towac Park accommodates a significant number of horses during race meetings and for training - disposal of manure from Towac has not emerged as an issue.

### **Stormwater**

By establishing an appropriate maximum stocking rate, horse paddocks should not experience overgrazing, and therefore runoff water quantity and quality should not be impacted. DCP provisions can also be prepared to provide for settling ponds to further limit any contamination risk.

### **Preliminary Contamination Investigation**

Envirowest Consulting on behalf of the proponent undertook a preliminary contamination investigation of the subject land dated 26 July 2017. The investigation was limited to a desktop study, site walkover and review of available history. No sampling or analysis was performed. The conclusion of the investigation was that past orchard and cropping activities are likely to have used pesticides over the area and that a soil sampling program should be undertaken, particularly in relation to proposed building envelopes. It is anticipated that a Gateway determination may require this analysis to be undertaken prior to public exhibition. Should contamination be found, remediation of affected land could be required during any subdivision process.

### **LEP Options**

The proposal examined several possible methods of amending Orange LEP 2011, these include:

- Extending the R5 Large Lot Residential zone – presumably with an appropriate minimum lot size of 2ha.
- Amending the land use table for both the R5 Large Lot Residential and RU1 Primary Production zones to ensure that stables and supporting functions are permissible – again presumably with an appropriate minimum lot size.

- Rezoning the site to RU4 Primary Production – Small Lots zone. This zone has so far not been adopted within the Orange LEP, and as such would allow Council to tailor the zone objectives and range of uses permissible. This would help to reinforce the intended role of the estate as an equine precinct and reduce the likelihood of land use conflicts.

Additionally, a local clause could also be considered in relation to domestic horse keeping. This issue has occasionally arisen on other large lots around Orange, with prospective buyers wanting certainty about being able to construct stables and/or what Council's requirements would be. These considerations will be determined through discussions with NSW Planning and Environment.

## **STRATEGIC FRAMEWORK**

### **Orange Sustainable Settlement Strategy (OSSS)**

The site is identified as part of LU9 in the OSSS, which nominates the area for urban development but was not anticipated to be required in the life of the plan. In essence, the strategy views this and other land units to the south and west as an overflow area that can be considered if the demand for land is greater than had been anticipated. The supply and demand figures provided in the planning proposal, while not extensive, can be regarded as indicative of the overall level of activity, and do suggest that demand has been stronger than the OSSS predicted.

### **Central West Orana Regional Plan 2036**

The regional plan contains a number of objectives and strategies that are intended to guide the development of the region within the State population forecasts. As a member council within the region, Council is required to consider the intent and directions of the regional plan when evaluating planning proposals.

In this respect the proposal notionally supports tourism (Direction 4) by fostering development of horse related activities in a defined precinct. Any increase to the local horse owning community will help to underpin local equine events that may, in turn, attract visitors from beyond the immediate area.

The proposal similarly supports equine related education and training opportunities (Direction 6). An amendment to the LEP with supporting DCP provisions would also foster greater land use compatibility (Direction 12), in particular providing greater certainty of land use (Direction 12.4) and provide guidance on sympathetic land use to reduce land use conflicts (Direction 12.5).

The proposal also responds favourably to managing rural residential development (Direction 28) in that the site is located close to existing urban settlements, enabling efficient use of roads and social and community infrastructure; and it is considered that horse owners are less likely to conflict with agricultural land uses south and west of the site.



**Section 9.1 Directions by the Minister (formerly Section 117 Directions)**

The planning proposal has examined all directions and given specific responses to directions:

- 1.2 Rural Zones
- 1.3 Mining Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site specific Provisions

The rationale outlined in each response has been reviewed and is considered to be satisfactory and supportable.

**Development Control Plan**

If the proposal proceeds, it is considered that the Orange DCP as it applies to this area will need to be amended as well to provide at least the following:

- a 20m setback for all buildings from both James Road and Ploughmans Lane. This will help to preserve design options for the long term future of the SFR;
- provision for a future horse underpass to link Towac Park with the equine precinct at the developer's expense;
- a horse friendly laneway network designed to enable all horse riders to move between the allotments and Towac Park without conflicting with the SFR or other local traffic;
- a requirement that the site design of all homes and outbuildings must retain the ability to locate stables and yard sufficient to maintain at least one horse; and
- additional requirements for the location of stables and horse yards, maximum stocking rates and any other animal welfare issues.

The Wollongong DCP example contains provisions for Animal Boarding or Training Establishments – Horse Breeding or Training that sets out a range of factors that could be adapted to conditions in Orange.

These include:

- minimum 2,000m<sup>2</sup> paddock size per horse, with a preference for 1ha or more
- setbacks for stable buildings to preserve amenity
- minimum dimensions for stables
- material requirements for masonry construction to 1.2m in height – lighter materials being more susceptible to damage from horse kicks
- impervious flooring materials to facilitate cleaning
- conveyance of stormwater runoff into drainage systems and/or water troughs
- height and placement of feeder and water troughs to reduce fouling
- shade trees in horse paddocks and appropriate horse standard fencing to be of post and rail construction; and
- liquid and solid waste collection and treatment requirements.

### **Preliminary Underpass Costing**

At the 3 April 2018 meeting Council required that a preliminary costing of the proposed underpass solution be provided. The intention for this request was to ascertain whether the cost of such works would be feasible given the relatively minor lot yield from the precinct across which the cost could be spread. The preliminary figures provided indicates a total cost of \$177,136.41 (inclusive of GST but excluding any contingency amount). Assuming a yield of 21 additional lots, as indicated in the conceptual layout, this equates to a cost burden of \$8,435.07 per additional lot. A recent search of land prices for 2ha blocks near Orange indicates a price range from \$300,000 and above. The proximity of the site to Orange suggests that the underpass costs can be reasonably borne by the proposed estate.

Due to the fragmented ownership pattern of the site it is unlikely to be developed by a single developer. Cost sharing mechanisms will need to be considered, potentially including an update to the Development Contributions Plan, voluntary planning agreements, or similar. This issue can be further investigated while seeking a Gateway determination and during any public exhibition process.

### **Conclusion**

The concept outlined in the planning proposal is regarded as having merit and is located in an appropriate location, particularly given the relation of Towac Park. At the 3 April 2018 meeting Council requested additional material be provided before further consideration would be undertaken. The proponent has now supplied additional information (attached to this report).

In the interim, three landowners within the subject site area as defined by the proponent have contacted Council requesting to be excluded from the proposal. Concerns expressed include a view that the proposal may hinder the marketability or resale potential of existing homes by creating a perception that only horse owners are allowed to buy properties in the precinct.

This is not correct, once a title exists it may be freely traded and Council has no involvement in the sale process. Additionally, even if Council attempted to impose such a restriction, any existing dwelling would automatically accrue existing use rights, enabling it to be maintained in perpetuity. However, it is acknowledged that the properties concerned do not stand to materially benefit from the planning proposal as they are already at or below the 2ha size and will therefore not obtain any subdivision potential. It may therefore be appropriate to consider amending the precinct area after the exhibition process.

**ATTACHMENTS**

- 1 Submissions, D18/40476
- 2 Concept Plans, D18/40477
- 3 Preliminary Contamination Investigation - Envirowest, D18/40238
- 4 Proposed Amendments to Orange LEP 2011 written instrument, D18/40253
- 5 Planning Proposal - supporting information, D18/40259
- 6 Planning Proposal - formal draft, D18/40256
- 7 Draft Development Control Plan - equine keeping provisions, D18/40311
- 8 Preliminary Underpass Costing, D18/40313