

5.2 Orange Local Environmental Plan 2011 - Planning Proposal Amendment 26 - To rezone land at 1517 Forest Road from R1 General Residential to B2 Local Centre zone.

5.2 ORANGE LOCAL ENVIRONMENTAL PLAN 2011 - PLANNING PROPOSAL AMENDMENT 26 - TO REZONE LAND AT 1517 FOREST ROAD FROM R1 GENERAL RESIDENTIAL TO B2 LOCAL CENTRE ZONE.

RECORD NUMBER: 2019/551

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EXECUTIVE SUMMARY

Council is in receipt of a planning proposal that is seeking to provide retail facilities that will be needed in South Orange, however it could be regarded as being in conflict or competition with existing B2 zoned land at 1471 Forest Road, which is part of the broader DPI Agricultural Research Station. Despite being rezoned some years ago it is unclear whether the State Government intends to ever take up the use of the site for its zoned purposes.

The proposal seeks to rezone precinct 1 of a private hospital site located at 1517 Forest Road. The overall property at 1517 Forest Road has a concept approval under the former Part 3A provisions of the Act. That approval divides the site into 4 precincts. Precinct 1 has an existing project approval for Health Facilities and Retail and is the subject of this Planning Proposal.

Precinct 1 currently allows health facilities such as pathology, medical imaging, medical suites, chemist and the like as well as minor retail activities including a convenience store, newsagent, hairdresser, shops, restaurant and takeaway food and drink premises.

The proposal seeks to alter the above to focus the land on retail activities. The health facilities would be incorporated into the private hospital building itself so that the retail component of precinct 1 could be increased.

Under the proposal, Precinct 1 would initially be developed for a supermarket of 1,649m², one mini-major outlet of 416m² and a further 845m² of specialty retail – likely to be a dozen or so shops. It is envisaged that a future 'Stage 2' planning proposal would seek to expand on this to allow the supermarket to grow to 3,000m² supported by an additional mini-major outlet of 936m² and 856m² of specialty retail. That expansion would absorb some of the Stage 1 retail space so that the overall centre at the conclusion of Stage 2 would contain 4,800m² of space. This would be equivalent in scale to the North Orange Shopping Centre.

Key issues arising from this planning proposal include:

- Economic impact on the CBD
- Traffic and Parking
- Implications for 1471 Forest Road and Agricultural Research Institute
- Timing and control of Stage 2
- Overall direction and vision of the broader Forest Road area

The planning proposal is accompanied by a conceptual design layout. The layout is provided for illustrative purposes only. Technical aspects of the design would need further refinement and assessment as part of a normal development application. The focus of the planning proposal is to determine the appropriate range and scale of uses that should be permitted on the site so that more detailed design work can follow.

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With respect to the impacts on the CBD from this rezoning, Council should consider that the Staged approach has been analysed and endorsed by Leyshon consulting, (Councils retail advisor) and that the public exhibition process will allow submissions to be made by the wider Orange Community including retailers.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “12.4 Prosper - Partner with key stakeholders to enhance opportunities for local business to grow and prosper”.

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

That Council resolve to support the planning proposal to amend Orange Local Environmental Plan 2011 in relation to 1517 Forest Road (Lot 1 DP 549856 and Lot 100 DP 1147525) as follows:

- **That the area of land known as precinct 1 be rezoned from R1 General Residential to B2 Local Centre**
- **That the area of land known as precinct 1 be mapped under the Floor Space Ratio map with a value of 0.185:1 to provide for 2923m² of retail floor space**
- **That an Additional Permitted Use mechanism be negotiated with the Department of Planning and Environment to allow for other non-retail uses on the site as normally permitted in the B2 zone. With the intended effect that the FSR above should only apply to retail forms of development.**
- **That the proponent be advised that any future expansion, such as the foreshadowed Stage 2, will be dependent upon the primary trade area catchment achieving a residential population level of at least 7,000 people, with evaluation of the catchment population to be determined with reference to Census and other ABS data only.**

FURTHER CONSIDERATIONS

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

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SUPPORTING INFORMATION

1517 Forest Road has an existing concept approval under the former Part 3A provisions of the Environmental Planning and Assessment Act. A concept approval essentially creates a localised planning framework for a specific site against which Project Approvals could be sought that are roughly equivalent to Development Applications.

The Concept Approval divides the site into four precincts. Precincts 1 and 2 also have Project Approvals in accordance with the Part 3A process while precincts 3 and 4 do not have Project Approvals at this time.

The draft planning proposal seeks to amend the Orange LEP 2011 in relation to precinct 1 only. This precinct has a project approval (MP 08_0232) for Heath Facilities and Retail encompassing facilities such as pathology, medical imaging, medical suites, chemist and the like as well as retail activities including a convenience store; newsagent; hairdresser; shops; restaurant and takeaway food and drink premises. The Planning Proposal seeks to rezone the precinct 1 land from R1 General Residential to B2 Local Centre and establish a Floor Space Ratio control that would enable a supermarket and supporting retail.

Intended over two stages, the first would enable consideration of a small supermarket of approximately 1,650m² which would be expanded in the second stage to 3,000m². The planning proposal only seeks to achieve Stage 1 at this time. Information regarding Stage 2 is therefore provided only for illustrative purposes and to foreshadow the overall intent of the precinct.

It is anticipated that Stage 2 would be sought via a separate planning proposal once the resident population of the primary catchment area has grown to approximately 7,000 people, anticipated to be in the timeframe of about 2024 – 2025.

Key issues arising from this planning proposal include:

- Economic impact on the trading performance of the CBD
- Traffic implications for Forest Road
- Implications for the existing B2 zoned land in south Orange at 1471 Forest Road
- Timing and mechanism for controlling the release of Stage 2
- Overall direction and intent of the Forest Road area in general

Economic Impact Assessment

As the Shiralee population grows the viability of a retail centre in Forest Road would improve. However the timing of any expansion should be balanced against maintaining the trading performance of the CBD. The Economic Impact Assessment (EIA) prepared by Location IQ on behalf of the proponent has been peer reviewed by Leyshon Consulting on behalf of Council.

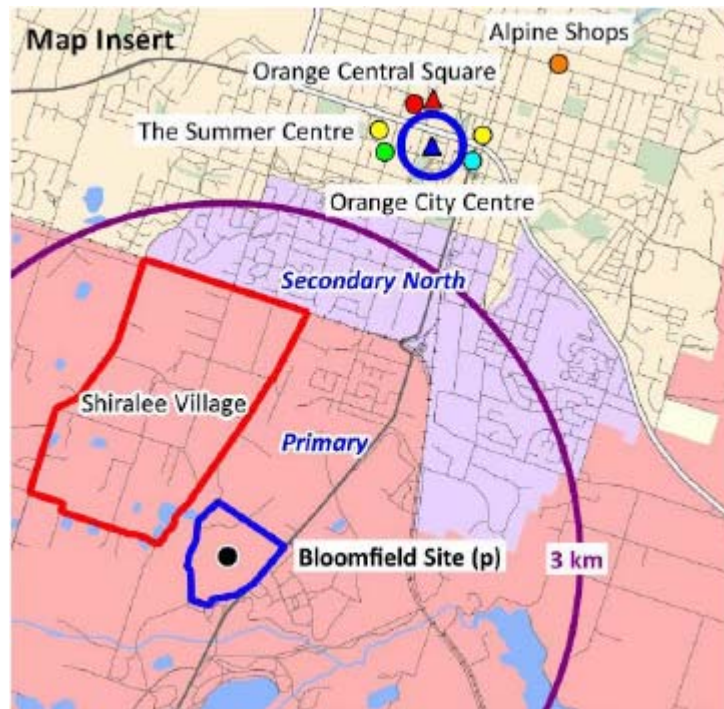
Leyshon notes that although the methodology of the EIA is generally sound the trade area depicted in the EIA could be questioned. The EIA describes the catchment as the Main Trade Area (MTA) which is then divided into a Primary Trade Area (PTA) and two secondary trade areas – Secondary North and Secondary South.

Leyshon argues that ‘Secondary North’ residents, which are closer to the CBD than the subject site will be more likely to travel ‘inwards’ to the CBD to access retail facilities. This reflects the stronger trading performance and diversity of offerings that the CBD provides.

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The estimated 2018 population of the entire MTA is 17,440 people, however only 5,510 were residents of the PTA. Secondary North population was estimated at 6,890 people accounting for approximately 40% of the overall figure.

Future growth within the PTA is dependent on the rate of development in Shiralee but has also assumed the development of 550 dwellings on the DPI land. With an average household size of 2.4 people the 550 dwellings would equate to some 1,320 people which may, or may not, eventuate.



The EIA estimates the Stage 1 impact on the CBD sales to be in the order of -3.2% with a similar impact on Blayney. Other centres such as North Orange are estimated to be impacted by less than -1% in 2021. Impacts of this scale are classified as a 'very low' impact and therefore the proposed development appears unlikely to detrimentally impact the trading performance of the centres affected. The EIA has not considered the impact on 1471 Forest Road, being the other B2 zoned land in South Orange (discussed below).

Leyshon cautions that if a supermarket is developed on the subject land as part of Stage 1 it is unlikely that a centre on the DPI land could also attract a supermarket tenant, limiting its role to small scale retail and commercial services, making it a secondary role compared to the subject site, at least in the short to medium term.

Leyshon notes that the EIA page 48 refers to the second stage:

"A full line supermarket of 3,000m² would likely be supportable by 2024/25 when the primary sector population is projected to reach around 7,000"

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Combined with the workforce population and some passing trade that population figure would probably be sufficient to support such a store. Although the Stage 2 expansion is not part of this planning proposal the intent has been foreshadowed. Accordingly if Council supports the proposal Leyshon recommends a clear condition be attached to link Stage 2 to the prior achievement of a primary residential population of at least 7,000 people. Leyshon further states that without such a condition:

“there is a risk that a full-line supermarket could be developed on the site before there is sufficient population in the immediate catchment to support such a store. Such an outcome could be expected to have a detrimental impact on the performance of supermarkets in the Orange CBD.”

The 2021 Census will produce data in late 2022 and early 2023. This combined with annual estimated resident population figures from the ABS should provide reliable and impartial guidance as to whether and when this threshold is achieved.

Ultimately Leyshon concludes that a convenience-type centre containing a supermarket will be needed in South Orange however further population growth will be required to justify the provision of a full-line supermarket. The proposal for Stage 1 is therefore supportable but a clear signal should be sent to the proponent with respect to the timing and population thresholds required before Stage 2 could be considered.

The proponent is keen to be able to establish the full extent of built form for both stages, acknowledging that the extent of retail floor space should not exceed the Stage 1 components. In this regard it may be possible to seek an Additional Permitted Use (APU) listing in Schedule 1 of the LEP that would enable other non-retail uses to be allowed over and above the FSR limitation. While an unconventional approach to the APU mechanism it is considered to be potentially viable, subject to the Department of Planning and Environment and the Parliamentary Counsels Office being able to agree on the precise formulation of the APU listing.

Traffic and Parking

Roads and Maritime Service have not been directly consulted at this stage. It is anticipated that any gateway determination would require such consultation, however previous advice from RMS in relation to Forest Road has indicated a strong preference to limit the number of access points on the western side, potential intersection and access constraints. Councils engineering staff have advised of several concerns relating to the conceptual site plan associated with this proposal, namely:

- The separate service entry, along the northern boundary, was never envisioned as part of this development with the construction of the traffic lights and Forrest Road upgrade. RMS will be the referral agency, as the proposed service road is within the influence zone of the traffic lights under the care control and maintenance of RMS. Previously, Woolworths North Orange were precluded from such an arrangement, as was McDonald's North Orange.

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This would not be supported in its current form and RMS will need a more detailed proposal including traffic report for their referral. They may give conditional approval subject to these details, only for it not to be allowed once the details are provided or limited to a left in left out or one way left out only proposal. A number of scenarios could be speculated on and the developer would need to provide further details as to the number of vehicle movements and types of service vehicles etc.

- The staging line for parking is unworkable with no circulating road to access the Stage 1 parks to the North.
- There is no Council/Public parking facility to accommodate overflow parking as such it is suggested that the parking to be provided must at least be equivalent to the retail demand calculations, rather than pay parking contributions for parking not provided. While not shown it is assumed there will be a mixed retail/café/restaurant usage so, in the absence of more details as to the real mix of uses proposed, car parking demand would be calculated on worst case scenario.

Accordingly, if the planning proposal is supported and the land rezoned, the above matters would need to be more appropriately resolved during the DA process.

Existing B2 Zoned Land



Prior to the 2011 election the former Labour Government rezoned much of the research station for urban development. Overall the concept plan included 550 residential lots between Shiralee and Forest Road (behind the subject site) and an area of B2 Local Centre Zone land that has an FSR of 0.0421:1 which equates to 1500m² of floor space in total. Since the 2011 election and the change in government the DPI site has essentially been dormant. Notwithstanding this, the DPI site remains zoned and therefore able to be developed and must therefore be considered as part of the residential and commercial land supply.

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More recently, the *Orange Blayney and Cabonne Regional Economic Development Strategy, 2018 - 2022* (REDS) has been developed which implies that the DPI land has a role to play in the regional action plan, namely to “develop agriculture, agricultural processing, agri-technology and manufacturing” which appears to be inconsistent with subdivision for a residential estate.

This report is being prepared and finalised prior to the State Election on 23 March 2019. While the election result should be known by the time this report is formally considered, it is unlikely that the State Government’s position (whoever is elected) would be immediately apparent. If the political landscape changes then the State’s intentions with respect to the DPI site may also change. The size of the DPI site and its position between Forest Road and Shiralee mean that whatever role for the site emerges will be an important factor for the planning of Forest Road.

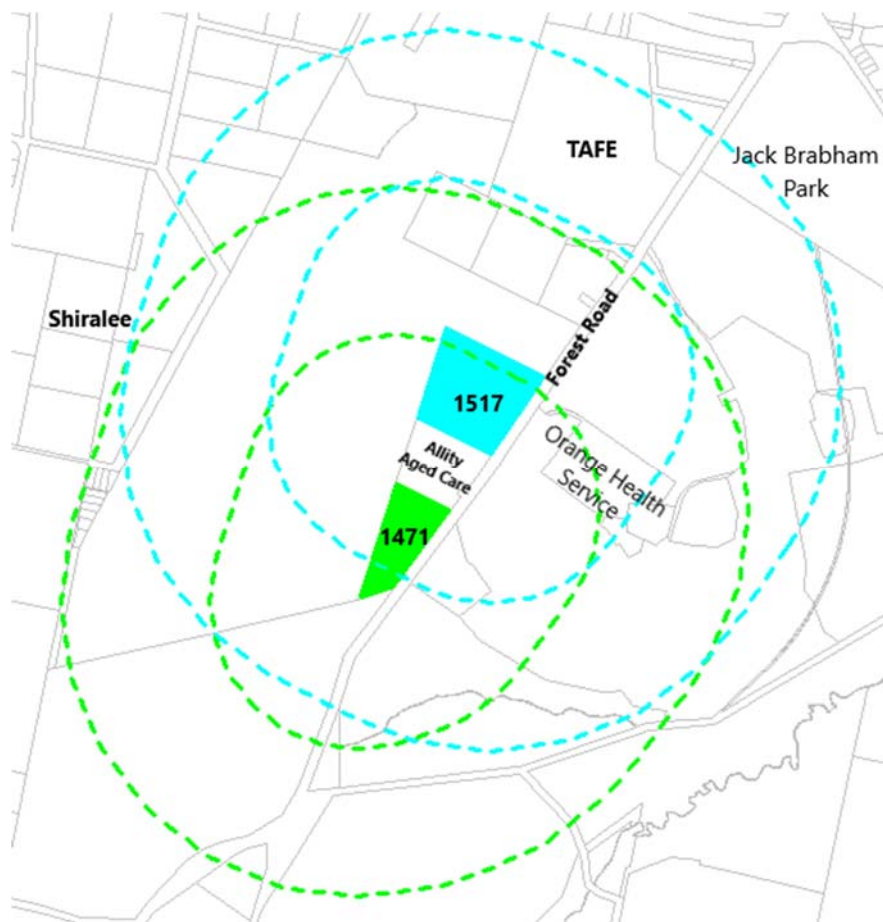
Due to proximity, the proposal at 1517 Forest Road has potential to conflict or compete with 1471 Forest Road. Should both proceed, and assuming that Stage 2 as foreshadowed in the proposal also proceeds, the total amount of retail floor space generated in this precinct would be approximately 6,300m². This is significantly larger than the initial development of the North Orange Shopping Centre which had a more substantial resident population in its primary catchment when it was created.

Notwithstanding the above, 1517 Forest Road is in private ownership and the owners entitled to seek consideration of their planning proposal in a timely fashion. Therefore the less than certain future of 1471 Forest Road, while a factor, should not preclude consideration of the best and most appropriate role for 1517 Forest Road.

In contrast to 1471 Forest Road, the location of this site is more convenient to the workforce and visitors of the Orange Health Service, the private hospital and the Allity aged care facility. It is also closer to other activities further north on Forest Road such as the TAFE and Wangarang. Additionally, events at Jack Brabham Park can attract significant attendance, some of whom would presumably access any retail facilities that may emerge in Forest Road.

Conversely 1471 Forest Road is at the very fringe of the urban area. Land further south is within the water catchment area and therefore unlikely to be rezoned and developed for urban purposes within the foreseeable future. Retail facilities at 1471 Forest Road would therefore be the less accessible location.

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For example, Jack Brabham Park is 700m from 1517 Forest Road and 1.13km from 1471 Forest Road. In planning terms, “walking distance” is typically regarded as being 400m – 800m depending on factors such as the slope of the land, number of intersections to be crossed, availability of pedestrian infrastructure such as paths and lighting and so forth. Consequently crowds attending an event at Jack Brabham Park may be willing to walk to the subject site but more inclined to drive to 1471 Forest Road. 400m and 800m distances of both sites are illustrated below.

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Staging Options

The planning proposal seeks to create a retail centre in association with the private hospital through a staged approach.

The existing Project Approval on the site already allows for:

- Health Facilities: 3,062m²
- Retail Space: 1,498m²
- Restaurant: 293m²
- Total approved floor space: **4853m²** most of which is *not* retail.
- Stage 1 requires a retail FSR of 0.185:1
 - A small supermarket of 1,649m²
 - One mini-major tenant of 416m²
 - Specialty retail space of 845m²
 - Total retail floor space: **2,910m²** = 1,119m² more retail than the existing approval
- Stage 2 subject to a future planning proposal requires a retail FSR of 0.304:1
 - Expansion of supermarket to 3,000m²
 - A mini-major tenant of 936m²
 - Specialty retail space of 856m²
 - Total retail floor space **4,792m²**

This approach tacitly acknowledges that catchment area for the site does not currently have a resident population that would sustain the development. However given the emerging role of Forest Road, discussed below, the first stage would initially be focussed on serving the workforce population as well as visitors to the hospital. It could also be argued that such facilities may to some extent mitigate traffic flows along Forest Road - Peisley Street as the existing Forest Road workforce could access retail facilities without needing to return to the main CBD.

It is also apparent from the above figures that the overall extent of built form both stages would be comparable, if slightly less than the existing project approval allows for. Consequently urban design outcomes, bulk and scale, visual presentation and streetscape and the like would be expected to be of an equivalent level.

Emerging Role of Forest Road

Forest Road is emerging as a key medical and allied services precinct with regional significance. The success of the Orange Health Service on the other side of Forest Road has spurred other developments including the private hospital and aged care facility to the south. The current planning and zone pattern in the area was established before the extent of the new hospitals impact could be fully appreciated.

It should now be anticipated that this cluster of activity is likely to continue to draw further interest and activity such that development along this corridor is likely to intensify further over time. This has ongoing implications for traffic, infrastructure and associated services that Council will need to manage into the future. The political situation in relation to the DPI land creates a level of uncertainty but it should nonetheless be anticipated that South Orange overall will increase in population and workforce numbers which justify a moderate level of retail facilities if only to alleviate traffic and parking pressures in the CBD.

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The subject site is relatively central to this Forest Road corridor and, if the DPI site does not proceed, would make a reasonable alternative. If both proceed then the extent of floor space sought under Stage 1 is considered to be low enough to not harm the overall performance and role of the CBD, although the effect may impact on some retailers more strongly than others.

The proposal would result in 1,119m² more retail space than the existing project approval. This compares to the 1500m² of retail floor space already allowed on the DPI site at 1471 Forest Road. It could be argued that consolidating the retail activity to the subject site would either remove pressure to develop a retail centre on the DPI land and/or enable the existing B2 zoned land at 1471 Forest Road to be re-purposed for another function that complements the emerging role of this section of Forest Road.

ATTACHMENTS

- 1 Draft Planning Proposal - rezone precinct 1 Bloomfield Private Hospital from R1 to B2, D19/13259
- 2 Draft Planning Proposal - Site context maps, D19/13271
- 3 Draft Planning Proposal - Site Masterplan, D19/13266
- 4 Draft Planning Proposal - Proposed Rezoning and FSR Maps, D19/13270
- 5 Draft Planning Proposal - Economic Impact Assessment, D19/13261
- 6 Draft Planning Proposal - Traffic and Parking Analysis, D19/13264
- 7 Review of Economic Impact Assessment, D19/9219
- 8 Proponents Response to Initial Issues, D19/18218