

PLANNING PROPOSAL

THE ANITA MOTEL SITE

Planning proposal for proposed rezoning to allow the establishment of a
Fast Food Outlet
Lots 1 and 2 DP 586224, Lots C and D DP 316180 and Lot 1 DP 660400 -
2-6 Dalton Street, Orange

Orange City Council



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PART 1 OBJECTIVES OR INTENDED OUTCOMES

The objective of this planning proposal is to enable the redevelopment of Lots 1 and 2 DP 586224, Lots C and D DP 316180 and Lot 1 DP 660400 - 2-6 Dalton Street, Orange to enable the establishment of a fast food outlet. The site is located on the corner of Dalton Street and the Mitchell Highway. It is envisaged that this will facilitate a local centre which serves the growing residential population nearby the site and to provide employment opportunities for local residents.

PART 2 EXPLANATION OF PROVISIONS

Amendment of the Orange LEP 2000 zoning map in accordance with the proposed zoning map shown at Attachment A. This includes rezoning of Lots 1 and 2 DP 586224, Lots C and D DP 316180 and Lot 1 DP 660400 - 2-6 Dalton Street, Orange from 2(a) Urban Residential to 3(b) Business Services to enable the establishment of a fast food outlet and to provide a range of uses that complement the locality without providing direct competition with the CBD.

PART 3 JUSTIFICATION

SECTION A NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

No - the planning proposal is not a result of any strategic study or report. The purpose of the proposed rezoning is to facilitate a local centre to service the growing residential population near to the site and to provide for local employment opportunities. An existing commercial development is located to the immediate south of the land, including a takeaway shop, butcher, hairdresser, pool shop, bakery, mini mart and local video store. This planning proposal will enable the establishment of a Fast Food Outlet and other complementary office and commercial uses on the site, incorporating appropriate landscaping and car parking facilities. It is envisaged that this will contribute to the provision of services and employment to the local community.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is expected that dealing with this planning proposal as a spot rezoning is the best means of achieving the objectives and intended outcomes. Previously it was intended that this site would be dealt with under the comprehensive Orange LEP which has been developed under the Standard Instrument Order.

In April 2009 the Department of Planning (DoP) wrote to all councils in NSW advising that the State-wide progress on implementing the Standard Local Environment Plan Program has not been as fast as initially anticipated.

In May 2009 Orange City Council's Sustainable Development Committee resolved that there would be no immediate benefit in prioritising its plan, providing certain key economic development proposals can be dealt with by way of spot rezonings. As a result, DoP has agreed to progress a number of compelling spot rezoning applications that are justified with planning merit and considered important to delivering critical housing, employment or other opportunities in a priority manner.

It was agreed that by bringing forward a number of priority rezonings and by taking a more considered approach to finalising Council's comprehensive plan, this will enable Council to await the outcomes of the Draft Centres Policy, monitor ongoing changes to the Standard LEP Template and to take additional time to properly consider its Additional Local Provisions. Ultimately this will ensure that the new LEP is a more robust plan with greater community acceptance. It will also enable key sites which have the ability to provide economic stimulus and employment generating activity to the city of Orange to be fast tracked ahead of the new LEP based on the Standard Instrument.

The DoP has expressed an interest in Council continuing to complete draft LEP 2009. To date progress on refining draft LEP 2009 has continued in-house and will continue once the proposed spot rezonings are completed and the outstanding issues with the Standard Instrument are resolved.

3. Is there a net community benefit?

It is envisaged that this proposal will result in an overall net community benefit. Detail on how the proposal meets the Net Community Benefit Test is dealt with through Attachment B to this report.

SECTION B Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Given the commercial nature of this development, the proposal is subject to the overarching planning policies, including the NSW State Plan and the Draft Centres Policy. Each of these policies focus on ensuring that development of new employment and commercial facilities are located suitably within the communities that they serve.

The Draft Centres Policy encourages the promotion of development in 'a network of centres' in order to accommodate *'the broad future pattern of future growth in each region and Council area'*.

The view of the Draft Centres Policy is that the commercial make-up and functions of each centre will vary according to their scale and nature and the catchment they serve. Whilst a large town centre area will provide a wide range of shopping and commercial activities commensurate with its role in the town, a group of local shops may provide convenience services to a small section of the community in which it is based.

The Draft Centres Policy makes it clear that local (neighbourhood) centres (including corner store, restaurant and community facility style developments) form an important part of the overall centres network. It is therefore considered that this proposal facilitates the outcomes of the Draft Centres Policy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The *Orange Community Plan 2007-2011*, supports Council's Vision - Orange 2020 and the integrated approach to planning adopted by Orange City Council.

One of the strategic objectives of the Community Plan is to ensure that Orange remains a *'Progressive and Sustainable Community'* which includes:

- *'The provision of Council accessible and attractive retail options in the CBD and in new and existing estate areas'* and
- *'Consideration of the need for retail outlets in new development areas.'*

To the immediate south of the subject land is an existing development with a range of retail premises providing services to local residents - including a butcher, video hire store and takeaway business. This development provides the beginnings of a centre which already provides services to the local community and passing traffic. This planning proposal will complement the existing development and provide for the immediate growth of the centre in this location consistent with the objectives of the Draft Centres Policy. The proposal is consistent with Council's Community Plan and Sustainable Development Strategy.

Under the strategic objective of providing for *'A Learning and Working Community'* the Community Plan encourages *'expanded employment opportunities for young people'*. The rezoning of the subject site will have significant employment benefits for the locality, by providing more than 100 positions as well as a number of other employment positions created by ancillary commercial uses. Many of these positions will be filled by young people. Complementary uses will add to the dynamic of the local centre, providing further employment opportunities.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

There are no existing State Environmental Planning Policies (SEPPs) or known draft policies that would prohibit or restrict the planning proposal. An assessment against relevant SEPPs is provided below:

SEPP	Relevance	Consistency	Comments
SEPP (Infrastructure) 2007	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services.	Yes	Adequate public infrastructure is provided for the planning proposal. Pedestrian and cycling access is reasonably served in the area. The area is served by public bus services.
SEPP No 19 - Bushland in Urban Areas	Aims to prioritise the conservation of bushland in urban areas. Requires consideration of aims in preparing a draft amendment.	Yes	There will be no potential loss of bushland as a result of the rezoning
SEPP No 55 - Remediation of Land	Establishes planning controls and provisions for remediation of contaminated land.	Yes	The requirement for a contamination study is unlikely based on existing knowledge of the site but otherwise would occur at DA stage
SEPP (Building Sustainability Index: BASIX) 2004	This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX. The draft SEPP was exhibited together with draft Regulation amendment in 2004.	Yes	Not relevant to this development.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal does not contravene any existing Ministerial Directions under Section 117(2) of the Environmental Planning and Assessment Act, 1979.

Specifically *Direction 3.1 Residential Zones* is very relevant to the proposed rezoning and is dealt with first.

The objectives of this direction are:

- (a) to encourage a variety and choice of housing types to provide for existing and future housing needs
- (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- (c) to minimise the impact of residential development on the environment and resource lands.

In accordance with subclause (4) of this direction, Council must ensure the planning proposal does the following:

- (a) broadens the choice of building types and locations available in the housing market
- (b) makes more efficient use of existing infrastructure and services
- (c) reduces the consumption of land for housing and associated urban development on the urban fringe
- (d) is of good design
- (e) does not permit residential development until land is adequately serviced and
- (f) does not reduce the permissible residential density of land.

There are no aspects of the planning proposal to indicate that it would be contrary to the objectives of this Direction.

The planning proposal will also meet the objectives of “*Direction 6.3 Site Specific Provisions* and *Direction 1.1 Business and Industrial Zones*”.

Direction 1.1 Business and Industrial Zones is relevant to this application. Clause 4 of *Direction 1.1* provides that a Planning Proposal shall:

- (a) give effect to the objectives of this direction
- (b) retain the areas and locations of existing business and industrial zones
- (c) not reduce the total potential floor space area for employment uses and related public services in business zones
- (d) not reduce the total potential floor space area for industrial uses in industrial zones and
- (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.

The planning proposal satisfies Clause 4 of the Direction as follows:

- the ability to achieve a higher and better commercial utilisation of the subject land will encourage and protect employment
- the Planning Proposal will reinforce the objectives of this Direction through appropriate zone provisions
- areas of existing business zones will be retained
- the planning proposal does not reduce potential floor space for employment uses and related public services in business zones and it encourages greater commercial utilisation of the subject land
- the proposal is consistent with the *Business Centre Strategy Review Study*.

The Table below provides an assessment against other Ministerial Directions.

Ministerial Direction	Relevance	Consistency	Implications
1.1 – Employment & Resources	The direction aims to encourage employment growth, protect employment land in business and industrial zones and support the viability of strategic centres	Yes	See above
1.3 – Mining Petroleum and Extractive Industries	The direction requires consultation with the Director- General of the Department of Primary Industries where a draft LEP will restrict extractive resource operations.	Yes	Future uses would not prohibit mining or restrict development of resources
2.1 – Environmental Protection Zones	The direction requires that the draft LEP contain provisions to facilitate the protection of environmentally sensitive land.	Yes	There will be no potential for loss of vegetation as a result of the proposed rezoning. The subject land is not within an environmentally sensitive area.
2.3 – Heritage Conservation	The direction requires that the draft LEP include provisions to facilitate the protection and conservation of aboriginal and European heritage items.	Yes	There are no impacts in this regard.
3.1 – Residential zones	This direction seeks to optimise housing choice and location whilst minimising impact of residential development on the environment and resource lands.	Yes	See above.
3.2 – Caravan Parks and Manufactured Home Estates	The direction requires a draft LEP to maintain provision and land use zones that allow the establishment of Caravan Parks and Manufactured Homes Estates.	Yes	The proposal will not affect provisions relating to Caravan Parks or Manufacture Homes Estates.

Ministerial Direction	Relevance	Consistency	Implications
3.3 Home Occupations	The direction requires that a draft LEP include provisions to ensure that Home Occupations are permissible without consent.	Yes	Not relevant to this proposed rezoning
3.4 – Integrating Land Use and Transport	The direction requires consistency with State policy in terms of positioning of urban land use zones.	Yes	The land is well positioned to maximise its accessibility to transport networks including William Street and the Northern Distributor and local roads, adjoining industrial and residential zones.
4.2 – Mine Subsidence and Unstable Land	The direction requires consultation with the Mine Subsidence Board where a draft LEP is proposed for land within a mine subsidence district.	Yes	The land is not within a mine subsidence district or been identified as unstable land.
4.4 – Planning for Bushfire Protection	The direction applies to land that has been identified as bushfire prone, and requires consultation with the NSW Rural Fire Service, as well as the establishment of Asset Protection Zones.	Yes	The site does not contain land identified as bushfire prone.
5.1 – Implementation of Regional Strategies	The direction requires a draft amendment to be consistent with the relevant State strategy that applies to the Local Government Area.	Yes	The draft amendment will be consistent with this requirement as there are no Regional Strategies applying to the Western Region.
6.1 – Approval and Referral Requirements	The direction prevents a draft amendment from requiring concurrence from, or referral to, the Minister or a public authority.	Yes	The draft amendment will be consistent with this requirement.
6.2 – Reserving Land for Public Purposes	The direction prevents a draft LEP from altering available land for public use.	Yes	Public use of the land is not proposed.
6.3 – Site specific provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Yes	The draft amendment will be consistent with this requirement.

SECTION C Environmental, social and economic impact.

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There do not appear to be any critical habitat or threatened species, populations or ecological communities or their habitats on the site. There does not appear to be a need for a Local Environmental Study.

Council is of the view that there is no need to consult with the Director General of the Department of Environment and Climate Change under Section 34A of the EP&A Act with regard to this planning proposal.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No other likely environmental effects are envisaged as a result of the planning proposal.

This planning proposal is not located on land that is affected by any landuse planning constraints or subject to natural hazards. The land is not identified as Bushfire Prone Land, nor is it affected by potential Flood inundation or subject to potential landslip. In addition, the proposal is not located in the Orange Water Catchment area.

10. How has the planning proposal adequately addressed any social and economic effects?

The spot rezoning of this site will achieve an immediate economic stimulus and overall benefit to the community as it will provide for the expansion of an existing neighbourhood shopping centre and will revitalise the existing site. The proposal enhances development which is complementary to the locality and will provide essential services and employment to the increasing residential population of the area.

The proposed development will create in excess of 100 jobs in an area of increased residential growth. The proposal is consistent with the NSW State Plan, the Draft Centres Policy and will not have a detrimental impact on the primacy or vitality of the Orange CBD.

Insite Planning Engineering Economic & Social are currently undertaking an economic and social impact assessment to evaluate the likely impacts of the development on the community. The site will have significant employment benefits for the locality, with the proposed McDonalds store providing more than 100 positions as well as a number of other employment positions created by ancillary commercial uses. The assessment also demonstrates that the rezoning will be consistent with local planning policies and will not have any adverse impacts on the Orange Central Business District or other local centres.

There are no known items or places of European or aboriginal cultural heritage. Therefore it is not envisaged that this planning proposal will have any adverse impacts on such items.

SECTION D State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

Adequate public infrastructure is provided for the planning proposal.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Various State and Commonwealth authorities will be consulted following the outcomes of the gateway determination. Consultation will be carried out in accordance with section 57 of the EP&A Act. It is expected that the applicant will need to address the access issues to and from the site. It is understood that this is being dealt with through the Roads and Traffic Authority (RTA). Council intends to seek comment from the following agencies with regard to this proposal:

- Roads and Traffic Authority
- Country Energy and
- Department of Housing.

PART 4 COMMUNITY CONSULTATION

Under Section 57(2) of the Environmental Planning and Assessment Act, before community consultation is undertaken, the Director-General of the Department of Planning must approve the form of planning proposals to comply with the gateway determination.

Council is of the view that this site does not meet the criteria as a 'low impact planning proposal' in its "Guide to Preparing Local Environmental Plans" and thus this planning proposal shall be exhibited for 28 days.

Council intends to advertise the proposed rezoning in the following manner:

- advertisement in the Central Western Daily newspaper
- exhibited material will be on display for 28 days at Council's Civic Centre located on the corner of Byng Street and Lords Place
- exhibition material will also be made available on Council's website throughout the duration of the exhibition period
- letters will be issued to adjoining property owners advising them of the proposed rezoning.

The gateway determination will specify any additional consultation that must be undertaken on the planning proposal.

ATTACHMENT A – MAPS

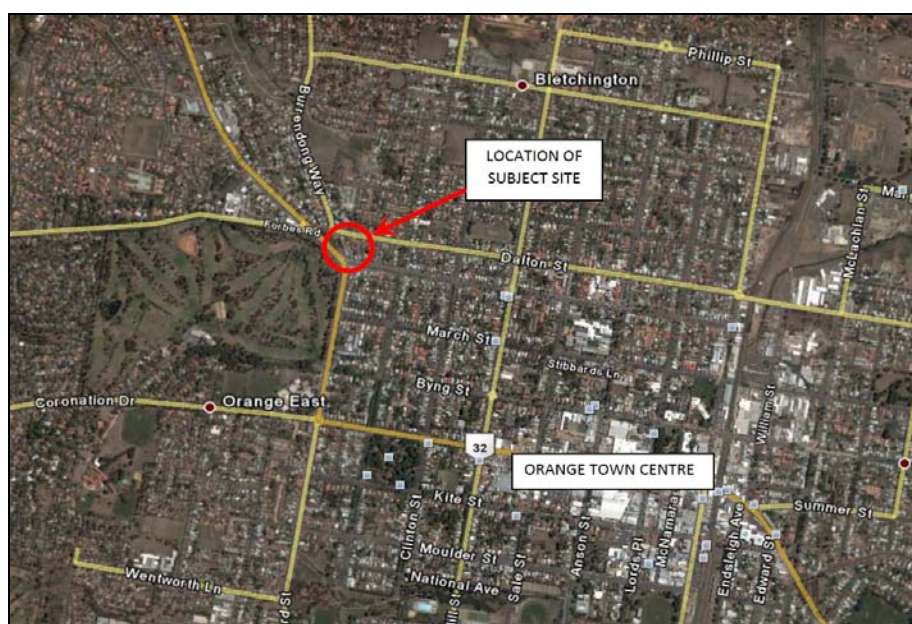
THE ANITA MOTEL SITE

Planning proposal to enable the establishment of a Fast Food Premises at
Lots 1 and 2 DP 586224, Lots C and D DP 316180 and Lot 1 DP 660400 -
2-6 Dalton Street, Orange

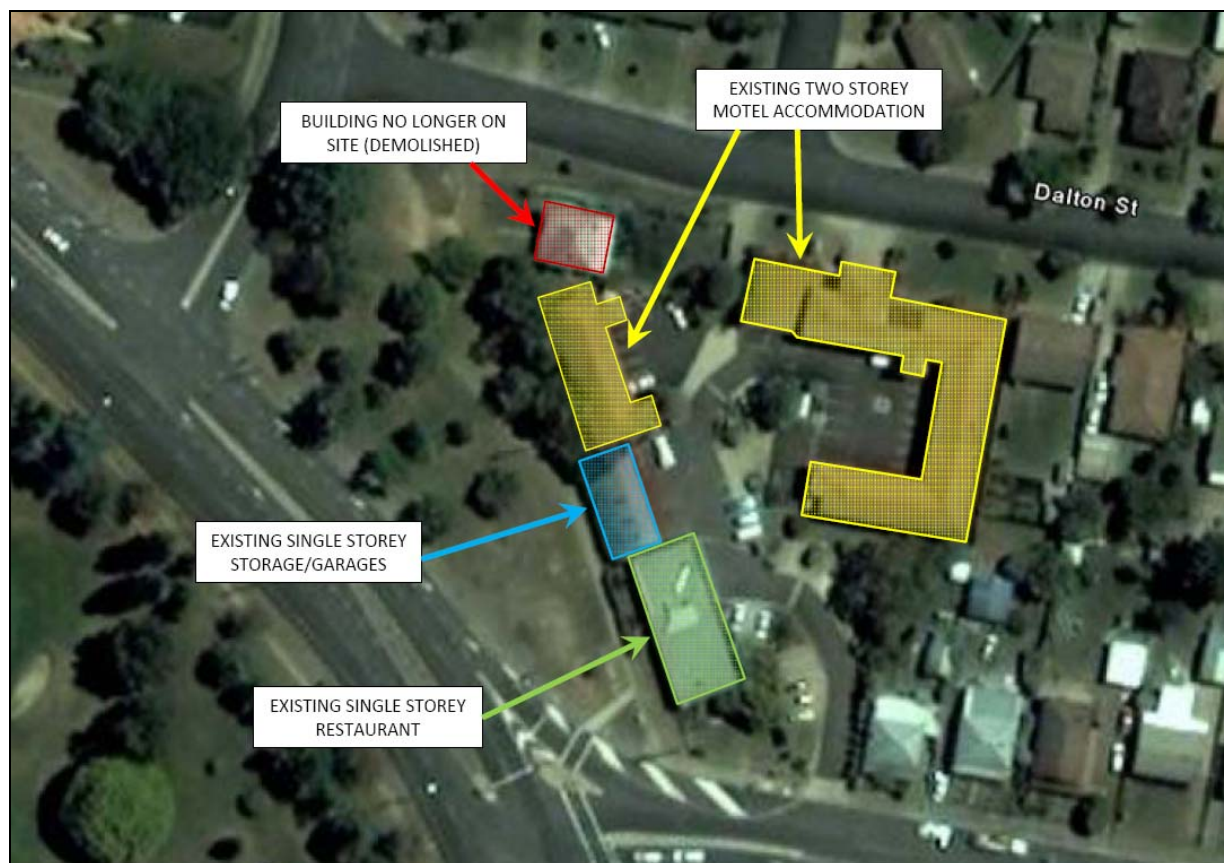
THE SITE



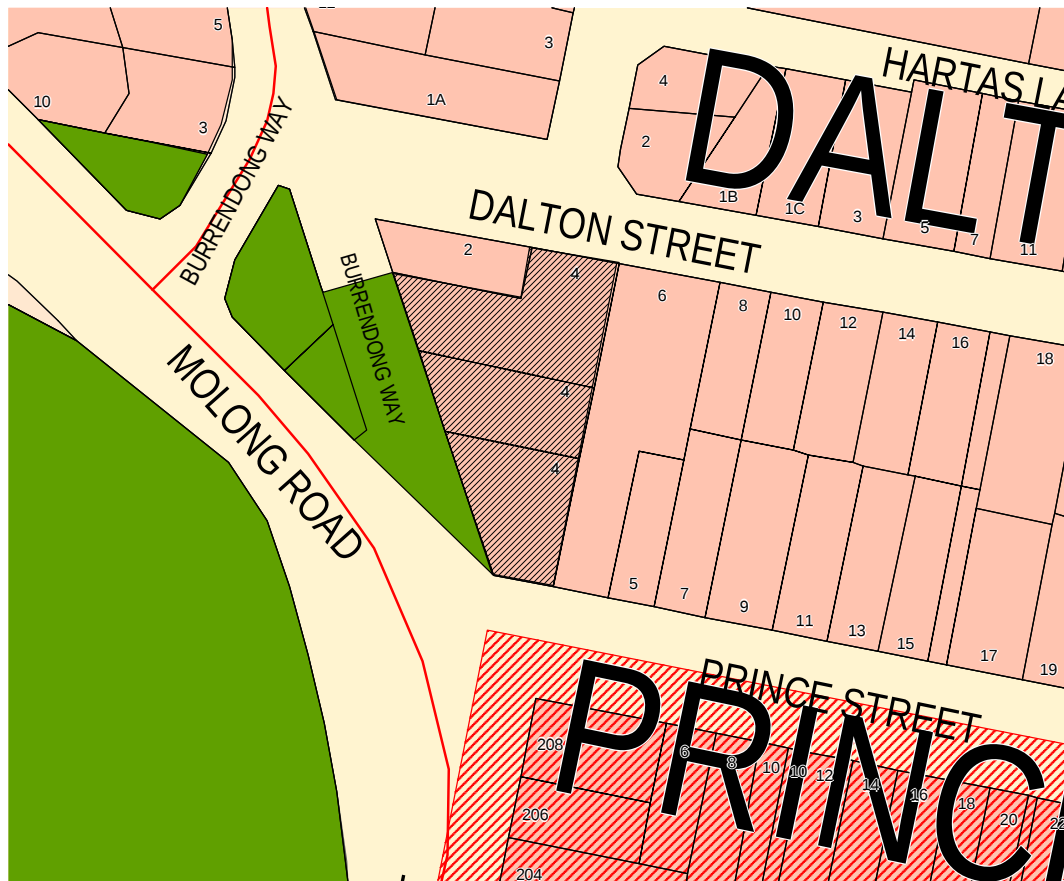
AERIAL PHOTO



EXISTING LANDUSES



EXISTING ZONING



1. RURAL (a) GENERAL FARMING (c) RURAL RESIDENTIAL	 	3. BUSINESS (a) REGIONAL CENTRE (b) BUSINESS SERVICES (c) LOCAL RETAIL	  	5. SPECIAL USES (a) PUBLIC PURPOSES (b) DISTRIBUTOR ROAD	 
2. RESIDENTIAL (a) URBAN RESIDENTIAL (b) URBAN TRANSITION (c) VILLAGE	  	4. INDUSTRIAL (a) INDUSTRIAL AND EMPLOYMENT		6. OPEN SPACE OPEN SPACE AND RECREATION	
				7. ENVIRONMENT PROTECTION WATER SUPPLY CATCHMENT	

STREET VIEW



View of subject land from the corner of Woodward Street and Prince Street looking north.



View of subject land from the Dalton Street looking east.

ATTACHMENT B - NET COMMUNITY BENEFIT

THE ANITA MOTEL SITE

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Lots 1 and 2 DP 586224, Lots C and D DP 316180 and Lot 1 DP 660400 -
2-6 Dalton Street, Orange

The following information is provided to the Department of Planning to assist with the assessment of net community benefit. The information is based on the Evaluation Criteria (p25) provided in the NSW Department of Planning *Draft Centres Policy, Planning for Retail and Commercial Development*.

1. Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transport node)?

Given the commercial nature of this development, the proposal is subject to the overarching planning policies, including the NSW State Plan and the Draft Centres Policy. Each of these policies focus on ensuring that development of new employment and commercial facilities are located suitably within the communities that they serve.

The Draft Centres Policy encourages the promotion of development in 'a network of centres' in order to accommodate 'the broad future pattern of future growth in each region and Council area'.

The view of the Draft Centres Policy is that the commercial make-up and functions of each centre will vary according to their scale and nature and the catchment they serve. Whilst a large town centre area will provide a wide range of shopping and commercial activities commensurate with its role in the town, a group of local shops may provide convenience services to a small section of the community in which it is based.

The Draft Centres Policy makes it clear that local (neighbourhood) centres (including corner store, restaurant and community facility style developments) form an important part of the overall centres network. It is therefore considered that this proposal facilitates the outcomes of the Draft Centres Policy.

2. Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?

No.

3. Is the LEP likely to create a precedent or change expectations of the landowner or other landholders?

No.

4. Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

The cumulative effects of all other spot rezoning proposals in this locality have been considered. This proposal is in close proximity to the proposal to expand West Orange Motors and has the potential to have a cumulative impact by delivering an over supply of commercial land in the western fringe of Orange. However, the nature of this proposal, for a fast food outlet ensures that it will deliver a different type of development to that offered by West Orange Motors.

5. Will the LEP facilitate permanent employment generating activity or result in a loss of employment lands?

Yes - the spot rezoning of this site will facilitate permanent employment generating activity and will result in a net gain of employment generating lands. The proposal enhances development which is complementary to the locality and will provide essential services and employment to the increasing residential population of the area. The proposed development will create in excess of 100 jobs in an area of increased residential growth. The proposal is consistent with the NSW State Plan, the Draft Centres Policy and will not have a detrimental impact on the primacy or vitality of the Orange CBD.

Insite Planning Engineering Economic & Social are currently undertaking an economic and social impact assessment to evaluate the likely impacts of the development on the community. The site will have significant employment benefits for the locality, with the proposed McDonalds store providing more than 100 positions as well as a number of other employment positions created by ancillary commercial uses. The assessment also demonstrates that the rezoning will be consistent with local planning policies and will not have any adverse impacts on the Orange Central Business District or other local centres.

6. Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?

The proposed rezoning will not impact upon or diminish the range of housing choices. The site does not form part of the City's residential land supply.

- 7. Is the existing public infrastructure (roads, rail, utilities) capable of serving the proposed site? Is there good pedestrian and cycling access? Is public transport available or is there infrastructure capacity to support future public transport?**

Adequate public infrastructure is provided for the planning proposal. Pedestrian and cycling access is reasonably served in the area. The area is served by public bus services.

- 8. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?**

The proposal will not result in changes to the car distances travelled by customers. Connections to the CBD (and the broader urban area) are well depicted, particularly as the Mitchell Highway forms a major road in the Orange network; while Dalton Street and Burrendong Way are important through roads. The site integrates with the existing transport routes.

- 9. Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?**

The proposal will reduce car dependency as it will provide a facility in closer proximity to residents in west Orange. The site is served by a road system (including a highway) that also serves nearby commercial precincts. As such, the site integrates with existing transport routes.

- 10. Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so what is the expected impact.**

There are no significant Government investments of infrastructure or services in the area whose patronage will be affected by this proposal.

- 11. Will the proposal impact on land that the Government has identified a need to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by factors such as flooding?**

The proposal will not impact on land that the Government has identified a need to protect. The land is not constrained by flooding or other factors.

12. Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

The proposed rezoning will permit for the establishment of a range of low key uses which complement the immediate locality of the subject land.

Strategic Policy for the locality, including the Orange Sustainable Settlement Strategy, the NSW State Plan and the Draft Centre's Policy, aim to promote self contained urban environments, with services located to meet the needs of the community whilst reducing the need to travel to access those needs. The proposed rezoning is consistent with this philosophy and aims to extend the small scale commercial activities in the area to provide additional services to the community. The rezoning aims to provide for the sustainable growth of the neighbourhood services already offered in the locality and supplementing them with additional services that will have the benefit of also attracting trade from passing motorists. However, the scale of the proposed rezoning and the nature of the eventual use are such that there will be no adverse impact on either the Orange CBD or any other retail/commercial centre.

13. If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

The subject land and immediately adjoining land already contain the makings of a local centre servicing the nearby community. The subject land itself has been developed for the purposes of a motel with associated facilities including a restaurant. In addition, land to the immediate south of the subject land is developed for the purpose of a small community shopping area, including a takeaway food store, video rental outlet and local butcher.

The proposed rezoning complements this existing development and provides for the growth of this local centre by permitting the establishment of a Fast Food Outlet, along with a range of range of services which would be considered suitable to serve the community, including child care centres, convenience stores, medical consulting rooms, motels and the like.

14. What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?

The spot rezoning of this site will achieve an immediate economic stimulus and overall benefit to the community as it will provide for the expansion of an existing neighbourhood shopping centre and will revitalise the site. The proposal enhances development which is complementary to the locality and will provide essential services and employment to the increasing residential population of the area. The proposed development will create in excess of 100 jobs in an area of increased residential growth. The proposal is consistent with the NSW State Plan, the Draft Centres Policy and will not have a detrimental impact on the primacy or vitality of the Orange CBD.

Facilitating major development will help to retain spending within Orange and create a stronger retail destination that will better serve the needs of the surrounding population. To not proceed will delay such benefits.