
2.3 ORANGE LOCAL ENVIRONMENTAL PLAN 2011 - AMENDMENT 21 'TOTALLY LOCAL' - POST EXHIBITION REPORT

RECORD NUMBER: 2018/1622
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EXECUTIVE SUMMARY

On 6 June 2017 Council resolved to proceed with a draft planning proposal to amend Orange Local Environmental Plan 2011 in relation to land at 426 Mitchell Highway (Lot 209 DP 1018862) commonly known as the Totally Local site.

The proposal seeks to confirm the site as a local food and produce hub complemented by a modest amount of tourist accommodation. The site is currently zoned R5 Large Lot Residential and was previously granted an Additional Permitted Use (APU) listing in Schedule 1 of Orange Local Environmental Plan 2011.

The APU listing contained a sunset clause that expired in 2014. The proponent states that the lapsing of the APU limited their ability to develop a comprehensive vision for the site, which has evolved over time. The proposal seeks to 'reactivate' the former APU and include some additional uses to complement and support the overall function of the site.

Totally Local is an established local food and produce focused complex that provides a significant opportunity and outlet for local fare and assists with building Orange's food and wine reputation to visiting tourists. The flow-on benefit to the local economy from the operation is therefore likely to be somewhat greater than a conventional retail centre.

The proposal seeks to further enhance the site in the proponent's words:

'so as to create a hub that showcases locally grown or produced food, wines and beverages, as well as associated items such as arts and crafts. The aim is to support and promote local farmers and food and drink producers and provide an outlet for local fare, essentially as an "everyday farmers market".'

A gateway determination was duly received that required consultation with Roads and Maritime Service and NSW Office of Environment and Heritage (due to the proximity of the site to the Ammerdown heritage item).

The planning proposal was publicly exhibited from 8 December 2017 to 12 January 2018 and a total of three submissions, one public and two from the government agencies mentioned, were received. Additionally, prior to the formal exhibition period a letter from Philip Donato MP on behalf of a constituent was received raising concerns with the proposal. This letter has been included in the assessment of the planning proposal as a further submission.

Initial concerns raised by the Heritage Office were resolved through clarifying the contextual relationship of the site to Ammerdown house and the associated carriageway, namely that the proposal has negligible interaction with, or impact upon the items and their respective curtilages.

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 resolve to proceed with the amendment to Orange Local Environmental Plan 2011 and authorise the General Manager to make the plan under delegation.**
- 2 That Council advise the applicant of the probable need for any future development application to incorporate access upgrade works and an appropriate heritage impact statement in relation to Ammerdown House and Carriageway.**

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.

SUPPORTING INFORMATION

The proposal would enable, by way of an Additional Permitted Use (APU) listing in Schedule 1 of the LEP, consideration of a development application for several forms of development not currently allowed under the R5 Large Lot Residential zone.

The additional uses being sought include:

- Food and Drink Premises,
- Agricultural Produce Industries,
- Light Industry,
- Function Centres, and
- Hotel or Motel Accommodation.

The proposal is backed by a conceptual design that seeks to create a local food and produce hub complemented by a modest amount of tourist accommodation.

Both *food and drink premises* and *agricultural produce industries* were previously enabled on the site under an APU listing that expired due to a sunset clause on 24 February 2014. That APU enabled the site to develop into a local food and produce complex comprising a produce shop, wine cellar, café, cheesemaker, craft brewery and food transport business.

The proposal states that the overall vision for the site was still evolving during the time of the original APU, which limited the ability to secure potential participants in the complex. The owners have since refined the vision and intended theme for the site and are now confident with regard to the long term mix of uses considered appropriate to the project.

Reactivating the *food and drink premises* and *agricultural produce industry* uses would ensure that current operators will be able to evolve and grow over time, and also ensure that any closures can be replaced with similar operations.

Introduction of the *light industry* use would enable a smallgoods manufacturer, commercial bakery, expansion of the brewery and other food related light industrial operations.

The *function centre* use would enable the site to cater for larger groups, conferences and weddings that would coincidentally promote local food, wines and produce to attendees by virtue of being on the same site as the other uses.

The *hotel or motel accommodation* would enable a number of cabins in one section of the site to provide accommodation to both general visitors and attendees of the various functions. This again would passively expose guests to the local food and produce of the other uses on the site, further boosting awareness and brand recognition of local produce.

SUBMISSIONS

Agency Submissions

Roads and Maritime Service

The RMS reviewed the proposal and advised that the land has access from the Mitchell Highway, which at this location is a sign posted 50km/h speed zone carrying over 4,000 vehicles per day. The RMS did not object to the proposal but advised that vehicular access arrangements between the site and the Mitchell Highway will need to be upgraded and potentially altered to ensure a high level of road safety and traffic efficiency into the future.

In essence, the submission can be regarded as primarily informative and flagging matters that will need to be addressed at the DA stage.

Office of Environment and Heritage

Initial informal responses from OEH were guarded due to concern for the neighbouring heritage items of Ammerdown Homestead and Carriageway. While the site does adjoin land containing the carriageway, all access and the focus of the development are oriented away from the heritage sites.

OEH were initially critical of the proposal as not providing a Heritage Impact Statement prepared in accordance with the NSW Heritage Manual "Statements of Heritage Impact" and associated guidelines. The heritage items and appropriate curtilage were ultimately found to be sufficiently protected by a combination of the distance separating them from the proposal and topography of the area largely shielding Ammerdown Homestead from direct view.

The loss of vegetation along the Ammerdown Carriageway was noted as reducing the visual buffer between the site and Ammerdown House. OEH have advised that Council will need to be satisfied that any impacts on the curtilage of Ammerdown House can be adequately managed at the development application stage, or alternatively seek an appropriate Heritage Impact Statement prior to finalising the planning proposal.



Public Submissions

One member of the public made a submission referencing the NSW Governments “Greener Places” discussion paper and Water Sensitive Urban Design (WSUD) principles. The submission notes that, for development applications, the Act requires consideration of any draft environmental planning instrument (EPI) and suggests that the proposed LEP amendment should therefore be required to respond to the Greener Places document.

While draft EPI’s do need to be considered during the assessment of development applications, the proposed amendment to the LEP is not a development application, nor is the “Greener Places” document a draft EPI. Rather it is in the form of a guidance policy from the Government Architects Office that may lead to further policy work in the form of design standards and manuals, infrastructure frameworks and guidelines for open space networks in the future.

Member for Orange

Philip Donato MP wrote to Council prior to the formal exhibition period to advise of concerns that a constituent, who neighbours the proposal, raised with him. Concerns expressed include:

- traffic safety in relation to the site access configuration - the likelihood of increased traffic movements, particularly trucks, into and out of the site having the potential to increase the perceived risks;
- potential increase in dust from the development and ongoing activities at the site; and
- extra noise from functions that will impact the surrounding area, including the neighbour as a resident.

It should be acknowledged that the planning proposal will lead to an intensification of the site's use and this will nominally increase the amount of associated traffic movements. Additional uses of the site may increase noise associated with the activities proposed. These matters, together with dust suppression, are likely to be within the scope of matters that can be resolved through development consent conditions and appropriate design responses at the development application stage.

The traffic implications have been noted by the RMS submission and give a clear indication to the proponent that further development on the site may require appropriate access upgrade works.

Traffic

The site has direct access onto the Mitchell Highway. While traffic volumes for individual aspects of the proposal are likely to be minor, the overall combination may warrant referral to Roads and Maritime Services for comment on appropriate access arrangements - notably the current northern access is not wholly aligned with the Murphy Lane T intersection on the other side of the highway. Any Development Application process will require referral to the RMS for consideration and Council's traffic committee.

Impact on Residential Land Supply

The site is currently zoned R5 Large Lot Residential. However, the minimum lot size for subdivision is 2ha and this is the approximate site area, meaning that no further subdivision is currently permissible. As such, the reduction of residentially zoned land arising from this proposal is at most one lot; however even this is negated by the current developments on the site.

Zone Interface

Land to the north, east and south of the site is also zoned R5 Large Lot Residential. Land on the other side of Ploughmans Creek is zoned R2 Low Density Residential and has recently been the subject of another planning proposal seeking to increase the density of the site. Land on the western side of the highway is zoned R5 south of Murphy Lane and RU1 Primary Production north of Murphy Lane.

There is some potential that intensification of this site may raise or contribute to the expectations of surrounding landowners for rezoning and development potential of their own sites.

In this regard the concept plan illustrates a design that seeks to keep activities centred within the block and afford opportunity for boundary landscaping buffers to help screen visually and audibly neighbouring lands. Frontage to the highway also argues against further fragmentation of surrounding lands, at least to the extent of minimising the number of access points.

Relationship to Central Business District

A core element of Orange's Business Centres Strategy is to maintain and protect the trading performance of the CBD. In this regard, out-of-centre commercial districts have been limited in scale and/or the range of commercial activities. In this regard the proposal does seek to allow additional commercial uses on the site.

However, the nature and scale of the main components are generally unlikely to emerge in the CBD due to operational requirements and not relying upon passing foot traffic. Other supportive uses such as bakeries and motel accommodation are considered to be an appropriate adjunct to the site as they will essentially reduce vehicle trip generation from visitors to the other components.

Easements

The site is subject to three easements, two for electricity and one for access to the otherwise landlocked eastern neighbour. The concept plans confirm that ongoing access to the eastern neighbour can be maintained. There is ample space on the site to design around the electricity easements, and thus a future development application will be expected to respond to them.

Floor Space Ratio

The site is not currently subject to any floor space limitations. Given the overall scope of the project relative to the site area, it is considered that the overall bulk and scale of built form is likely to remain within a visually acceptable level. However, given the issues of traffic access onto the Mitchell Highway and concern to limit out-of-centre competition with the CBD, it may be appropriate to establish a floor space ratio (FSR) limit over the site. It is considered that any FSR should only be related to development forms enabled under an APU as this would more clearly address the CBD fragmentation issue.

Amenity Issues

Potential for noise, visual impacts, headlight glare and neighbour privacy conflicts is acknowledged. However, at 2ha in size the site area is sufficient to enable a wide range of adaptive measures to be incorporated at the development application stage. The concept plan illustrates how the main focus of activity can be centralised within the site, with ample setbacks to all boundaries (albeit with car parking in such setbacks).

Water Quality and Stormwater

Similar to the above, it is considered that the site area provides ample opportunity to address groundwater and stormwater management concerns. Any industrial or similar development application will need to demonstrate appropriate safeguards against pollution, while the overall site layout will be expected to incorporate appropriate stormwater management options, especially given the proximity of Ploughmans Creek. Again, the concept plan in the proposal retains generous setbacks to the creek line sufficient to include detention basins. Details of such would be required at the development application stage.

State Environmental Planning Policies and Section 117 Ministerial Directions

Annexures C and D of the planning proposal provide an overview of how the project relates to SEPPs and Ministerial Directions. The comments within the proposal have been reviewed and are generally supported. The Department of Planning and Environment will further review the responses when considering the matter for a Gateway determination.

ATTACHMENTS

- 1 Submissions, D18/40003
- 2 Planning Proposal, D17/31945
- 3 Planning Proposal - Annexure A Land Plans, D17/31948
- 4 Planning Proposal - Annexure B - Concept Plans 01, D17/31949
- 5 Planning Proposal - Annexure B - Concept Plans 02, D17/31951
- 6 Planning Proposal - Annexure B - Concept Plans 03, D17/31952
- 7 Planning Proposal - Annexure B - Concept Plans 04, D17/31953
- 8 Planning Proposal - Annexure B - Concept Plans 05, D17/31954
- 9 Planning Proposal - Annexure B - Concept Plans 06, D17/31955
- 10 Planning Proposal - Annexure B - Concept Plans 07, D17/31956
- 11 Planning Proposal - Annexure B - Concept Plans 08, D17/31957
- 12 Planning Proposal - Annexure B - Concept Plans 09, D17/31958
- 13 Planning Proposal - Annexure B - Concept Plans 10, D17/31960
- 14 Planning Proposal - Annexure B - Concept Plans 11, D17/31961
- 15 Planning Proposal - Annexure C - SEPP Schedule, D17/31963
- 16 Planning Proposal - Annexure D - Ministerial Directions, D17/31965