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5 October 2017

The General Manager  
Oberon Shire Council  
PO Box 84  
OBERON NSW 2787

**Attention: Shane Wilson**

Dear Mr Wilson

**PLANNING PROPOSAL TO AMEND OBERON LOCAL ENVIRONMENTAL PLAN 2013 WITH RESPECT TO LAND LOCATED SOUTH OF BOX FLATS ROAD, O'CONNELL – REQUEST FOR FURTHER COMMENT**

Thank you for your recent correspondence with respect to the above matter. We understand that the planning proposal is due for consideration at the October 2017 meeting of Council. We understand that the assessment and recommendations provided by the Council's consultant planner are that the planning proposal should be not endorsed by Council for the following reasons:

- *It does not accord with the Oberon Land Use Strategy criteria in identifying future rural lifestyle living sites as O'Connell is not a primary or secondary service centre.*
- *The additional lot supply in O'Connell may generate disproportionate demands for services and infrastructure in the village of O'Connell which is currently not zoned to allow commercial, retail or community facilities.*
- *There has been no evidence provided within the Planning Proposal that there is less than 10 years supply of rural lifestyle living sites and/or a lack of supply of rural lifestyle living sites in O'Connell or Oberon Council.*
- *In accordance with Section 117 Direction 1.2 Rural Lands, there is no compelling reason that this agricultural land should be rezoned to lifestyle living lots.*
- *Is not supported by SEPP (Rural Lands) 2008, as the Planning Proposal has failed to provide evidence that additional R5 zoned land would contribute to the social and economic welfare of the O'Connell community.*

We provide the attached information in respect of the above noted points via this supplementary report, which should be read in conjunction with the lodged planning proposal and local environmental study.

On the basis of this supplementary information we maintain that the proposal is consistent with the applicable planning framework and should be endorsed by Council.





Please contact the undersigned in the event any additional information is required.

Yours faithfully  
**Geolyse Pty Ltd**

A handwritten signature in black ink, appearing to read "D Walker", written over a light blue grid background.

**DAVID WALKER**  
**Senior Town Planner**

Attachment 1: Supplementary information



## 1.1 ADDITIONAL INFORMATION

The following information responds to the feedback provided by Council staff in response to the planning proposal and local environmental study (LES) prepared by Geolyse in respect of land south of Box Flats Road, O'Connell, being part Lot 4 DP1023024.

Each of the comments from Council are addressed in turn.

***It does not accord with the Oberon Land Use Strategy criteria in identifying future rural lifestyle living sites as O'Connell is not a primary or secondary service centre.***

Applicable criteria for identifying future rural lifestyle living areas as provided on Page 42 of the Oberon Land Use Strategy (LUS) are reproduced and discussed in Table 2.1 of the Geolyse LES, which supports the Planning Proposal.

A total of nine applicable criteria are identified via the LUS. The proposed site is considered to be generally consistent with all of these criteria. Council however take the view that the site is inconsistent with dot point 5, which states:

*New rural residential development should have reasonable proximity to one of the LGA's primary or secondary service centres.*

The planning proposal is not identified as being inconsistent with any of the remaining eight criteria.

The term 'primary or secondary service centre' is not defined in the LUS, beyond a comment at Section 4.4 – O'Connell (page 166) of the LUS, which suggests that a service centre includes (but presumably is not limited to) provision of a neighbourhood shop and/or post office. Land within the O'Connell village is zoned RU1 – Primary Production and currently features the following commercial land uses: The O'Connell Hotel and the O'Connell Avenue Café and Store. The O'Connell Rural Fire Service headquarters is also located in the village. The former O'Connell post office is understood to have closed in 1980. The village is less than 15 minutes' drive from Bathurst. On the basis that the village already provides a neighbourhood shop, it would appear that the limited criteria of the LUS is satisfied.

Additionally, the current RU1 zoning of the land enables the following development types (with consent) that could support the growing local community subject to a development proposal:

**Advertising structures;** Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; **Bed and breakfast accommodation;** Boat launching ramps; Boat sheds; Building identification signs; **Camping grounds;** **Cellar door premises;** Cemeteries; **Community facilities;** Correctional centres; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; **Educational establishments;** Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Freight transport facilities; **Function centres;** Helipads; **Highway service centres;** Home-based child care; Home industries; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Jetties; Landscaping material supplies; Open cut mining; Plant nurseries; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Roads; Roadside stalls; Rural industries; Sewerage systems; Veterinary hospitals; Water recreation structures; Water supply systems

Notable, a highway service centre is defined as:

*highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may **include any one or more of the following:***

(a) a restaurant or cafe,



- (b) *take away food and drink premises,*
- (c) *service stations and facilities for emergency vehicle towing and repairs,*
- (d) *parking for vehicles,*
- (e) *rest areas and public amenities*

The current facilities in O'Connell village satisfy the limited clarification of a primary or secondary service centre as per the LUS and the current zoning enables sufficient development to be carried out to support the primary or secondary service centre definition.

It is notable that a perceived inability for land in this locality to satisfy criteria 5 of page 44 of the LUS did not prevent Council from rezoning land directly around the O'Connell village, including to the east and west of the subject site, from primary production purposes for rural residential purposes, via the preparation and adoption of the current *Oberon Local Environmental Plan 2013 (LEP)*.

To rely on this argument in relation to this planning proposal is inconsistent with Councils actions to date in this locality and such inconsistency could expose Council to a successful challenge via a pre-Gateway review in the event the planning proposal is not supported.

***The additional lot supply in O'Connell may generate disproportionate demands for services and infrastructure in the village of O'Connell which is currently not zoned to allow commercial, retail or community facilities.***

As per the above response, it is considered that there is sufficient infrastructure in place, and able to be developed via the current zoning, to respond to this issue.

It is also notable that the scale of subdivision that would be possible via this rezoning would release only an additional 17 lots on to the market. This is a minor change to the current and potential level of development via the current zoning.

***There has been no evidence provided within the Planning Proposal that there is less than 10 years supply of rural lifestyle living sites and/or a lack of supply of rural lifestyle living sites in O'Connell or Oberon Council.***

The analysis by Western Region Institute provided to support the planning proposal concluded that demand for housing in the form of lifestyle lots in the O'Connell village is much stronger than for other areas within the Oberon LGA. This is most likely due to the proximity to Bathurst and Oberon, and to the attractive character of the O'Connell village and surrounding landscape.

The counter point to this attractive character is that rezoning land around the village has eroded the right to farm of the current land owner, making viable use of the subject site for primary production purposes marginal. As growth has expanded in the locality in recent years, greater pressure has been exerted to minimise potentially intrusive activities that have the potential to impact lifestyle allotment occupants due to noise or air quality degradation, such as spreading fertiliser and lime and carrying out cropping activities due to dust issues. Even low scale grazing use has the potential to create problems at the zone interface due to noise from animals during calving/lambing periods.

Additionally, other potentially permissible primary production land uses, such as intensive forms of agriculture or development of a rural industry would likely face restriction on application to Council due to the density of development that has been permitted around the site.

By contrast, rezoning and subdivision of the subject site would not further impact right to farm of adjacent properties, as it is already surrounded by residential zoning to the east and west, and by fragmented



primary production land to the south and north (north is the village of O'Connell). Appropriate buffers to the land to the south have been factored into the concept lot layout and could be further refined at subdivision stage.

The land is therefore will suited for rezoning to respond to the current pressures exerted by currently zoned lifestyle allotments around the site.

In terms of demand and supply for this form of land use in the locality, the following is noted.

Population data available for the O'Connell census district shows that the locality has experienced 6% year on year growth in the 10 year period 2006 - 2016. This is a reduction from the 16.5% year on year growth experienced between 2006 - 2011.

This compares to growth across the Oberon Local Government Area of 0.54% (2006-2016) and 0.04% (2006-2011). Notably, the NSW Department of Planning & Environment predicts negative growth in Oberon LGA, with a reduction in population to 2036 of -0.4% per year. Whilst this is contrary to the low (but positive) growth exhibited between 2006 – 2016 it is representative of a general trend in rural and regional NSW of an ageing and declining population.

Other key demographic features of O'Connell, such as income and labour force data are also representative of a growing and in demand locality. As noted by WRI:

*Labour force data, marital status and income data also supports high demand, with high rates of employment and significant purchasing power. Of particular relevance to the proposed development is the median household income for the O'Connell population, which earns significantly more than State and regional averages and also has a very low rate of unemployment. This suggests that the proposed development is in a location that is appealing to a high income cohort who has disposable income to put towards large, rural, lifestyle blocks.*

As concluded by WRI, the village of O'Connell is a sought after area due to its rural location and proximity to both Bathurst and Oberon. WRI noted that anecdotal evidence of strong demand and short supply is revealed through discussions with local real estate agents. However this is also borne out by the analysis reflected in **Figure 1**. This demand analysis considers the period 2016-2035 (being the period between the preparation of this report and the strategic horizon of the adopted LUS).

The statistics in **Figure 1** provide a number of scenario's for the village, including consistent year on year growth, adopting the 6% growth level for the current 2006-2016 period (representing a high growth rate), moderate growth of 2.5% and growth consistent with figures for the wider Oberon LGA (0.54%). All figures are year on year growth levels.

As noted in **Figure 1**, growth consistent with the rest of the LGA, would require no additional homes in O'Connell village by reference to the current number of homes available in O'Connell, current dwelling vacancy rates and average person per dwelling rates in Oberon (all take from the 2016 census data for the O'Connell state suburb). For a moderate growth scenario, five homes per year in O'Connell are required. For a high growth rate (consistent with current levels of growth) 21 homes per year are required. By reference to the LUS identified goal of providing at least 10 years of supply, this translates to 0, 100 and 396 homes year respectively at LGA wide rate of growth, moderate and high growth (consistent with current levels).



	Year	O'Connell consistent 6%	O'Connell moderate 2.5%	O'Connell consitent with Oberon average 0.054%
	2016	569	569	569
	2017	603	583	572
	2018	639	598	575
	2019	678	613	578
	2020	718	628	581
	2021	761	644	585
	2022	807	660	588
	2023	856	676	591
	2024	907	693	594
	2025	961	711	597
	2026	1019	728	600
	2027	1080	747	604
	2028	1145	765	607
	2029	1214	784	610
	2030	1286	804	614
	2031	1364	824	617
	2032	1445	845	620
	2033	1532	866	624
	2034	1624	887	627
	2035	1722	910	630
Change 2016-2035		1153	341	61
Occupancy Rates (2016)		2.8	2.8	2.8
Occupied Dwellings reqd 2035		614.85	324.87	225.11
Vacancy Rates 2016		16.7	16.7	16.7
Occupied Dwellings reqd 2035		615	325	225
Unoccupied Dwellings reqd 2035		12	7	5
Total dwelling reqd 2035		627	331	230
Existing dwellings (2016)		231	231	231
Dwellings reqd (2016-2035)		396	100	-1
Average Annual Dwellings reqd		20.9	5.3	-0.1
Dwellings reqd 2017-2035		375	95	-1

**Figure 1: Dwelling demand in O'Connell**

However, identifying demand is only one part of the equation.



There is always a particular challenge identified in determining sufficient levels of supply. Whilst Oberon has adopted an arbitrary figure of providing at least 10 years supply, in reality, the challenge is more nuanced. Three particular scenarios exist in this regard:

1. Precisely the right amount of land is zoned for rural residential needs, or
2. Insufficient land is zoned for rural residential needs, or
3. Excessive land is zoned for rural residential needs.

While the first scenario should always be the objective, the longer the timeframe involved the more difficult it becomes to maintain. As such hindsight will reveal most strategies fall into either the second or third scenarios.

Where insufficient land is zoned for rural residential purposes it will inflate land prices and discourage people from moving to the locality.

Where excessive land is zoned for rural residential purposes it will have the opposite effect, deflating or at least holding land prices. This may encourage some new people to move to the area and buy homes but discourages developers from entering the market, leading to a gradual reduction of supply and potentially an over-correction of the market.

To contrast demand, an analysis of existing supply in the O'Connell ABS district is outlined in **Table 1**. This analysis is conservative as it relies on aerial photography that is, in many instances, a number of years old.

Supply of lots is considered both as a function of zoned, subdivided but vacant lots, as well as zoned but un-subdivided land. Where land is zoned but not subdivided, they have been marked as potential lots. Potential lots are determined first by applying a 25% reduction in the land size to account for provision of roads and open space, plus a further 5% reduction for steeply sloping (constrained) land. Notably, all land within close proximity to O'Connell that has the potential for subdivision has the same minimum lot size of 10 hectares. This minimum lot size is also proposed for the subject site. This lot size is unique in the LGA, with all other R5 land having minimum lot sizes of 2 and 5 hectares.

Rural residential land supply data provided in the LUS dates from 2008-09 and it is not overly helpful to compare this with current data sets to determine changes in supply, although it was specifically noted via the LUS that limitations exist in terms of supply of 1(c) (now R5) zoned land.

**Table 1 – Rural residential allotment supply around O'Connell**

Area	Supply
North of Lagoon Road (1)	10 lots
North of O'Connell Plains Road (Lagoon Road to the south-east) (2)	12 potential lots
North of Box Flats Road (3)	3 potential lots
Stony Creek (4)	23 potential lots
South of Mutton Falls Road (5)	5 existing lots and 9 potential
North of Mutton Falls Road (6)	3 lots
<b>TOTAL</b>	<b>65 (18 subdivided/vacant + 47 potential)</b>

Source: Google Earth 2017

\* Numbering refers to land areas depicted in Figure 2



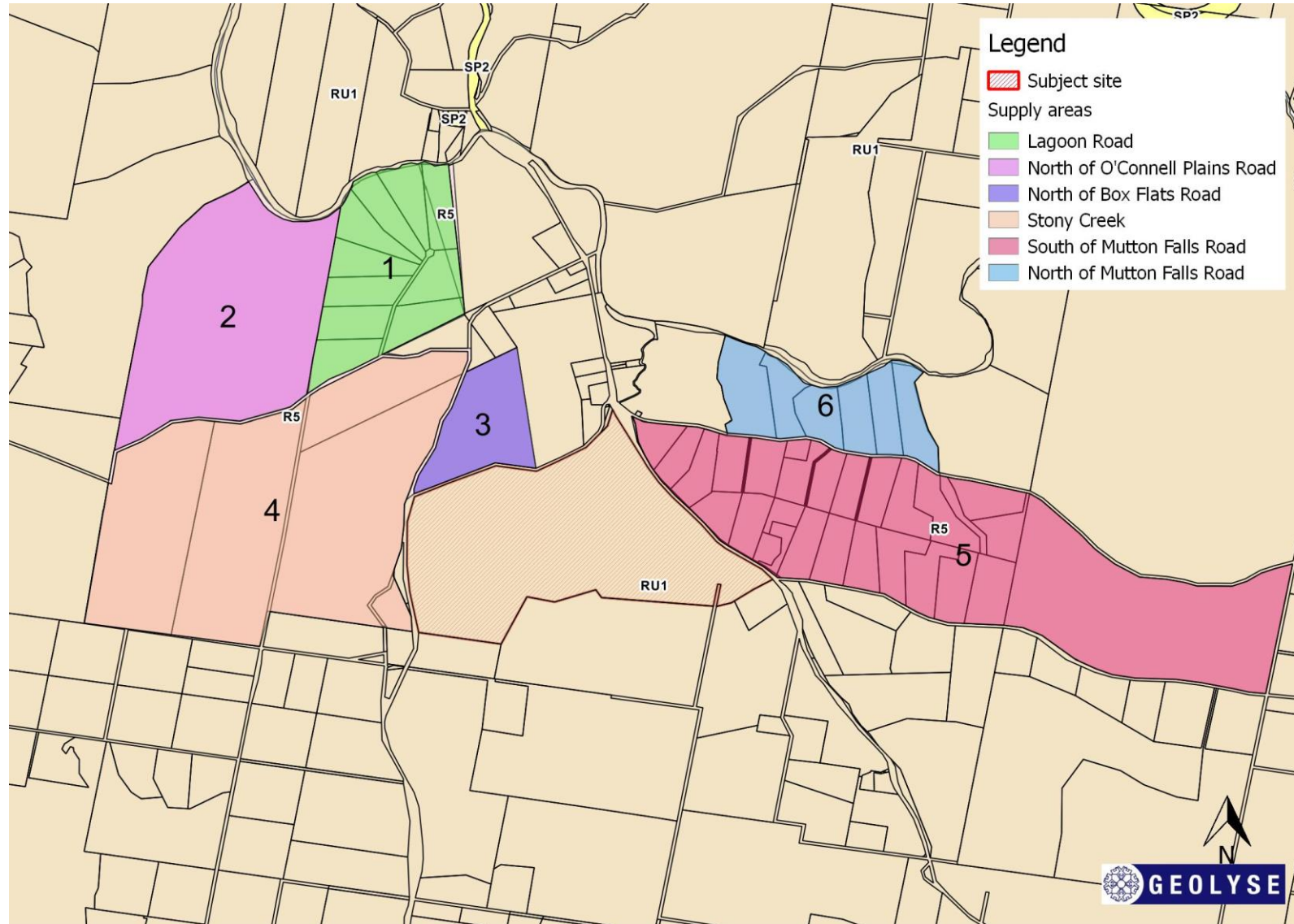


Figure 2: Existing R5 zoned land around O'Connell village



By reference to the above, there is therefore 18 subdivided and developable lifestyle lots around the O'Connell village locality, and a further 47 potential lots. 65 lots represents a supply of 3.25 years of supply at the current growth scenario or 13 years at the moderate growth scenario. Analysis of Council approvals in the last five years or review of more up to date aerial photography would no doubt reduce these supply figures by 5-10%.

Council's LUS identifies that a 10 year supply is desirable, however the LUS itself has a horizon until 2035 (or a further 18 years from 2017). Growth at current levels, or moderate growth, would therefore result in a land shortfall in and around the village of O'Connell during the life of the LUS. Growth at anything above the moderate growth rate, would result in a shortfall in the availability of lots in the 10 years to 2027. Rezoning of the subject land has the potential to realise up to 17 additional lots (less than one year's supply at current growth rates or 3.5 years at a moderate growth rate).

Whilst other rural residential areas are available in the Oberon LGA, these are all further removed from Bathurst and therefore are more attractive to people working in Oberon. O'Connell is however attractive to those who commute to Bathurst. Additionally, the form of lifestyle allotments offered around the O'Connell village are very specific in terms of size and provision of on-site services. Other lifestyle allotment opportunities within the Oberon LGA are smaller, with minimum lot sizes on offer of 2 hectares and 5 hectares. The larger lot sizes offered around O'Connell are not offered elsewhere in the LGA and it is understood that it is this form of uniqueness, together with the character of the locality that contributes to their appeal.

On the basis of the above, it is concluded that there is sufficient demand in the O'Connell locality to justify the rezoning of the subject land, in order to bolster land supply and respond to the identified shortfall in the lifetime of the LUS.

***In accordance with Section 117 Direction 1.2 Rural Lands, there is no compelling reason that this agricultural land should be rezoned to lifestyle living lots.***

As outlined via this report, the land is considered suitable in the context of Council's adopted criteria for identifying lifestyle allotments. Also as outlined, demand in this locality is strong for this type of allotment. These alone are both compelling reasons to endorse the proposal.

Additionally, and as discussed earlier, the right to farm of the current landowner has been eroded by the decision to rezone land around the site. Land to the south and north remains zoned for primary production however both areas are fragmented into smaller allotments, leading to more dwellings around this land. Land to the east and west is zoned for lifestyle allotments, although development has not proceeded at this time in the land to the west. The land to the east is a historic and well developed rural residential subdivision with only a small number of available vacant lots.

These gradual changes over recent years has led to ongoing difficulties with ensuring viable primary production use of the subject land. Odour complaints due to the application of fertilisers and air quality complaints with respect to application of lime and use of cropping equipment have risen. This has left grazing as the only viable way to use the land. The ability to utilise this land for agricultural purposes will only further degrade as further subdivision and development occurs on the land to the west.

The unfortunate position is therefore realised that alternative uses for the land must be pursued. The positive note that comes out of this is the highly desirable nature of the land for use for lifestyle purposes and the demand for the use for such a purpose as demonstrated by this report.

Finally, the planning proposal is justified by a study that considers the objectives of Directive 1.2 and therefore, by reference to Directive 1.2(5)(b), the planning proposal may be inconsistent with the directive.

***Is not supported by SEPP (Rural Lands) 2008, as the Planning Proposal has failed to provide evidence that additional R5 zoned land would contribute to the social and economic welfare of the O'Connell community.***

Aim 2(b) of the Rural Lands SEPP states:

*(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*

Section 2.2.5 of the LES prepared to support the planning proposal contains a detailed analysis of the Rural Lands SEPP rural planning principles.

Given the identified shortfall of supply for rural residential housing in the O'Connell region and the difficulties faced by the current land owner to continue using the site viably for primary production purposes, the proposed rezoning is considered to be consistent with the planning principles.

Notably, the viable economic use of the land is constrained by the existing and potential rise of development around the site and the increase in conflict with existing and future landowners that this results in, primarily due to air quality and noise issues. Therefore the social welfare of current and future landowners in the locality is improved by reducing this conflict at the zone interface.

The release of sufficient land to respond to supply supports the economic welfare of the locality, and by extension the broader LGA and the state, by ensuring that land in areas of demand provide sufficient supply. A shortfall of supply in this locality would lead to pressures in other primary production areas and thereby transfer conflict to other primary production land. The use of already constrained land is logical.

The assessment provided within the planning proposal and LES confirms the absence of significant environmental constraints and its suitability for development purposes. In all respects the reporting finds that, subject to imposition of standard controls and minor additional investigation, the land is suitable for the proposed purpose.

## **1.2 CONCLUSION**

On the basis of the above analysis, it is concluded that the land is suitable for the proposed purpose, is consistent with the regulatory framework and adequately responds to demand for housing in the locality.

For all of these reasons, the planning proposal should be supported and endorsed by Oberon Council.

