

Memorandum

To File

From Damien Pfeiffer Director Regions, Western
0400978105

Date 29 May 2018 **File no** IRF18/2020 **File** OConnel DRW memo 28 May 2018.doc

Subject: Oberon Council Planning Proposal (PP_2018_OBERO_001_00) – Rezone to large lot residential Part Lot 4 DP 1023024, O’Connell Road, O’Connell

Purpose

To consider and determine planning proposal (PP_2018_OBERO_001_00) having regard to the planning proposal, information provided by Council and DPE assessment report.

Background

- Oberon Council submitted a planning proposal on 22 February 2018 (**Attachment A**) to rezone part Lot 4 DP 1023024 (area of about 200 ha) from zone RU1 Primary Production to zone R5 Large Lot Residential and change minimum lot size from 100 ha to 10 ha. This will permit the land to be subdivided into 17 x 10 ha lots for dwelling house purposes.
- An initial assessment of the proposal was undertaken by DPE that resulted in further information being requested from Council on 9 April 2018.
- On 19 April 2018 Council provided further information. (**Attachment B**).
- On 22 May 2018 Director Regions endeavoured to contact General Manager Oberon to discuss determination option for the proposal.
- A final Gateway Determination Report dated 25 May 2018 (**Attachment C**) recommended that the proposal not be supported and the Gateway determination for refusal be issued.
- On 28 May 2018 Director Regions again endeavoured to contact General Manager Oberon to discuss proposal. Spoke with Planning Director.

Issues

The issues are as follows:

- The planning proposal is not consistent with the Central West and Orana Regional Plan 2036. The proposal undermines the directions contained within the Regional Plan which seeks to ensure the provision of suitably located rural residential land that is supported strategically by a local land use strategy.
- The planning proposal to rezone land RU1 Primary Production to R5 Large Lot Residential is not strategically considered and is inconsistent with the endorsed Oberon Land Use Strategy.
- The planning proposal will create a disproportionate demand on services and infrastructure in O’Connell which is zoned RU1 Primary Production and therefore problematic for Council to develop services and facilities that would be required to support additional rural residential development.

- The planning proposal is inconsistent with Section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 5.10 Implementation of regional plans as well as State Environmental Planning Policy (Rural Lands) 2008 as it will result in the loss of 200ha of agricultural land that is not supported by the endorsed Oberon Strategy.
- Information provided by Council and the proponent indicates that O'Connell has an existing supply of land zoned R5 Large Lot Residential with the potential for approximately 63 lots. This provides the immediate locality with approximately 13 years of supply.

The Oberon Council area has a total of approximately 1348ha of existing vacant land zoned R5 Large Lot Residential providing the potential for approximately 411 lots.

- Council officers recommended that the proposal not be supported. Councillors recommended that the proposal proceed to Gateway determination.

Comment/Options

I have thoroughly considered the planning proposal, Council's further information, the Gateway Determination Report and the circumstances of the case. The following options to determine this proposal have been considered: -

1. Issue a Gateway determination that refuses the proposal for reasons as outlined in the Gateway Determination Report.
2. Issue a conditional Gateway determination that requires a strategic planning review of large lot residential land in the Oberon local government area.
3. Request Council to withdraw the proposal until the strategic work has been undertaken.

I am of the view that Option 2 is preferred in that the proposal be conditionally approved subject to conditions. I am recommending this option for the following reasons:

- The time that has passed since the Oberon Strategy was prepared and endorsed. It is timely that Council review the Oberon Strategy.
- The proposal has merit for further strategic investigation having regard to the planning proposal information notwithstanding it is inconsistent with the Oberon Strategy and CWORP.
- To allow Council to strategically justify the proposal in relation to the large lot residential land supply at O'Connell and in the Oberon Council local government area.
- To allow the strategic review of the large lots residential land in consultation with agencies and the community.

Recommendation

As the delegate of the Minister for Planning I recommend that a Gateway determination be issued subject to the following conditions:

1. Prior to undertaking community consultation of the planning proposal, Council is to prepare an addendum to the Oberon Land Use Strategy 2013 (Oberon Strategy) in respect to the rural residential / large lot residential component having regard to, but not limited to, the following:
 - a. Review the existing Oberon Strategy recommendations and suitability of the supply and demand for rural residential / large lot residential in Oberon Council area and make recommendations for any changes based on the revised trends, assumptions and evidence including;
 - i. Review the Oberon settlement hierarchy classification;

- ii. Consider each proposed change in relation to the relevant section 9.1 Ministerial Directions, State Environmental Planning Policies and Central West and Orana Regional Plan 2036;
 - iii. Consider the subject site (Part Lot 4 DP 1023024 O'Connell Road O'Connell) in relation to the above review;
 - iv. Review the scenic heritage value of the land surrounding O'Connell; and
 - v. Review the appropriateness of the zone RU1 Primary Production at O'Connell settlement.
- b. Consider and submit to the Department of Planning and Environment results of consultation with relevant agencies in relation to the draft Addendum.

The abovementioned Addendum to the Oberon Strategy is to be submitted to the Department of Planning and Environment for approval prior to undertaking community consultation.

2. Prior to community consultation Council is to demonstrate to the Department of Planning and Environment that it is satisfied with the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land.
3. Prior to community consultation being undertaken consultation is required with the Department of Planning and Environment – Resources and Energy under section 3.34(2)(d) of the Act to address the inconsistency with section 9.1 Direction 1.3 Mining, Petroleum Production and Extractive Industries.

The Department of Planning and Environment – Resources and Energy is to be provided with a copy of the planning proposal and any supporting material, and given at least 40 days to comment on the proposal.

The result of the consultation is to be provided to the Department of Planning and Environment seeking approval to undertake community consultation.

4. Community consultation is required under sections 2.22 and 3.34(2)(c) of the Environmental Planning and Assessment Act 1979 as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Environment August 2016)*.
5. Consultation is required with the following public authorities under section 3.34(2)(d) of the *Environmental Planning and Assessment Act, 1979*:
 - Department of Primary Industry – Agriculture
 - NSW Roads and Maritime Services
 - Department of Industry – Water
 - Office of Environment Heritage

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be

prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the *Environmental Planning and Assessment Act, 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
9. Council not be authorised to exercise plan making delegation as the local planning authority in this case. Such delegation be reconsidered after condition 1 is completed.



30.5.18

Damien Pfeiffer
Director Regions, Western
Planning Services