

Planning Services

Gateway Determination Report

LGA	Orange
PPA	Orange City Council
NAME	Addition of 'Artisan food and drink industry' land use in certain business zones
NUMBER	PP_2018_ORANG_003_00
LEP TO BE AMENDED	Orange Local Environmental Plan 2011
ADDRESS	Nil – LGA wide
DESCRIPTION	Nil – LGA wide
RECEIVED	8 November 2018
FILE NO.	IRF18/6182
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

Orange has a growing reputation as a food and wine destination for tourists. Orange City Council has submitted a planning proposal to allow 'Artisan food and drink industry' as a permissible land use in certain business zones to further promote the food and wine industry.

Site description

The planning proposal will affect any land within the following zones:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use

Existing planning controls

The Standard Instrument—Principal Local Environmental Plan was amended in August 2018 to include multiple new land use definitions including 'Artisan food and drink industry'. Councils are permitted to include 'Artisan food and drink industry' as a permissible land use in zones via amending Local Environmental Plans (LEPs) through a planning proposal.

Surrounding area

Currently all affected business zones in the Orange LGA are limited to the city of Orange. The business zones are all located along major roads of Orange, except for the former Orange Base Hospital on the block bounded by Prince, March, Sale and Anson Streets.

Summary of recommendation

Proceed with condition – No additional information or changes to the planning proposal are required. It is recommended for a Gateway determination to be issued with standard conditions relating to community consultation and a timeframe to complete the LEP. Given the planning proposal will only add to permissible land uses in certain businesses zones and will not generally affect land with Council interests, it is recommended that Council be granted delegation to make the LEP.

PROPOSAL

Objectives or intended outcomes

To provide opportunities for 'Artisan food and drink industry' businesses and resultant tourism to expand in Orange. This will be achieved by including 'Artisan food and drink industry' as a land use which is permitted with consent in the following business zones:

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use

Explanation of provisions

'Artisan food and drink industry' is a subset of the 'light industry' land use and is permissible wherever 'light industry' is permissible in LEPs. Adoption of the planning proposal will allow 'Artisan food and drink industry' to also occur in certain business zones, subject to development approval.

No community consultation for this proposal has occurred yet. However, given the proposal will facilitate additional commercial uses in a growing food and wine area, it is expected the proposal will be supported by the community at the public consultation phase.

Mapping

No amendments to maps are required for this proposal.

NEED FOR THE PLANNING PROPOSAL

Inclusion of 'Artisan food and drink industry' as a new land use definition by the Department is the primary reason for this proposal. Council is permitted to include this land use in other zones via a planning proposal. Council states inclusion of the land use in business zones will promote tourism, leisure, and alternative consumer experiences for visitors and residents of the Orange region. Facilitating the growth of the food and wine reputation of Orange through this proposal is supported.

The proposal is considered the best means for achieving the intended outcomes as it will not result in any site-specific provisions and avoid the need for future ad-hoc Schedule 1 additional permitted uses planning proposals.

STRATEGIC ASSESSMENT

State

There is no known relevant State strategic planning framework for this proposal.

Regional / District

The Central West and Orana Regional Plan 2036 (CWORP) is the relevant regional plan for Orange. The planning proposal is directly relevant to and consistent with Action 3.1 to '*promote investment in advanced and value-added manufacturing in employment lands through suitable land use zonings and land use definitions in local environmental plans (LEPs)*'.

artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

Note.

See clause 5.4 for controls in industrial or rural zones relating to the retail floor area of an artisan food and drink industry.

Artisan food and drink industries are a type of **light industry**—see the definition of that term in this Dictionary.

When notified, the planning proposal will allow for a new type of low impact food and drink manufacturing to be co-located in certain business zones.

The planning proposal is also broadly consistent with the following Actions:

- Action 4.3 – develop the region's capacity to grow food and wine tourism.
- Action 4.4 – enable opportunities appropriate for tourism development and associated land uses in LEPs.
- Action 10.2 – use LEPs to promote the development of specialised industry clusters and the co-location of related industries.
- Action 12.4 – amend planning controls to deliver greater certainty of land use.

Local

As this planning proposal relates to a recently-created land use definition, there are no local strategies directly related to this land use type. Council states the planning proposal is not inconsistent with the sub regional Blayney, Cabonne, Orange Rural and Industrial Land Use Strategy (July 2008, under review) as it will allow 'artisan food and drink industry' businesses to be located away from the limited industrial zoned land in Orange.

Section 9.1 Ministerial Directions

Direction 1.1 Business and Industrial Zones

The planning proposal applies to this direction as it will permit an additional land use in certain business zones. The proposal is consistent with this Direction as will not contravene any of the Direction objectives.

Direction 3.1 Residential Zones

This Direction applies as the proposal will affect businesses zones which allow for residential uses, i.e. B4 Mixed Use allows for multiple dwelling types. The proposal will not contravene the objectives or requirements of this Direction. The Director Regions, Western can be satisfied that the proposal is consistent with this Direction as it is of minor significance.

Direction 3.4 Integrating Land Use and Transport

This direction applies as the planning proposal will alter business zones. The Direction requires the planning authority to have regard to:

- Improving Transport Choice – Guidelines for planning and development (NSW Department of Urban Affairs and Planning (DUAP), 2001).
- The Right Place for Business and Services – Planning Policy (DUAP, 2001).

The location of the business zones in the city of Orange are all serviced by public transport bus routes and occur within cycling loops around the city. The business zones are considered more accessible to consumers and public transport users than other zones, such as industrial zoned land in which artisan uses (a form of industry) are currently permitted. As a result of the planning proposal, car dependence will be reduced in Orange to visit artisan businesses than if they remained in industrial zones. The planning proposal is consistent with the two DUAP guidelines and is consistent with Direction 3.4.

Direction 4.3 Flood Prone Land

This Direction applies as the planning proposal will alter a zone which is affected by flood prone land. The Direction requires many provisions are considered and adhered to in relation to flood prone land, however, these provisions are not applicable to the planning proposal. The Director Regions, Western can be satisfied that the proposal is consistent with this direction as it is of minor significance.

Direction 5.10 Implementation of Regional Plans

As previously discussed (see regional strategic assessment), the planning proposal is consistent with the CWORP and is consistent with Direction 5.10.

Direction 6.1 Approval and Referral Requirements

This Direction applies to all planning proposals. The planning proposal is consistent with this Direction as it will not impose any additional concurrence or consultation requirements for development applications nor affect designated development.

Direction 6.3 Site Specific Provisions

The planning proposal applies and is consistent with this direction as it will allow an additional development to be carried out in certain business zones with consent.

State environmental planning policies

No SEPPs have been identified as being relevant to this planning proposal. For example, *SEPP 33—Hazardous and Offensive Development* is not considered relevant as ‘Artisan food and drink industry’ is a light industry and would likely not be considered a hazardous or offensive industry within the meaning of the Standard Instrument LEP.

SITE-SPECIFIC ASSESSMENT

Social

The proposal is expected to have some positive community outcomes as it will provide for new employment and tourism activities. Facilitating additional ‘Artisan food and drink industry’ uses are expected to contribute to the food and wine reputation of Orange.

Environmental

The proposal is an administrative amendment to the LEP only by inserting a new permissible land use into certain business zones. Some artisan uses, such as ‘micro-breweries’, small-scale distilleries and cheese factories, may generate odours or noise due to their manufacturing and chemical processes. Council will direct and encourage any artisan businesses which might have potential to cause land use conflict to be located in the permissible industrial zones. Given the definition of ‘Artisan food and drink industry’ as a light industry, it is not expected for land use conflict to occur. Environmental impacts (e.g. flooding, groundwater, threatened species and noise) from this LEP amendment would be assessed on case by case basis, at the development application stage and mitigated as required.

Economic

The proposal is expected to have a positive economic impact as it will allow for new businesses to operate in certain business zones of Orange.

CONSULTATION

Community

Council have proposed a 28-day community consultation phase. This is considered appropriate as it will give community sufficient time to assess the merits of a new land use type in business zones. The exhibition period may need to be extended to cater for the summer holiday season.

Agencies

No agency consultation has been proposed by Council. This is considered appropriate as no agency consultation requirements have been identified under any SEPPs or section 9.1 Directions.

TIME FRAME

Council’s proposed timeline to complete the LEP is six months. Given the low impact of this planning proposal, a six-month timeframe is considered appropriate. However, a 12-month timeframe has been given to allow for delays over the end of year break.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given the planning proposal will only amend permissible land use in certain businesses zones and will not affect land with Council interests, it is recommended for delegation to make the LEP be given to Council.

CONCLUSION

Preparation of the planning proposal is supported and should proceed with conditions. The planning proposal appears to provide benefit for the local and broader community by permitting new food and drink businesses to establish in appropriate locations. The community is expected to gain from revenue generated from increased employment and tourism opportunities. The planning proposal is consistent with relevant State, regional and local planning frameworks and is supported for conditional Gateway determination as outlined below.

RECOMMENDATION

It is recommended that the Delegate of the Secretary:

1. Agree that any inconsistencies with section 9.1 Directions (Direction 3.1 Residential Zones and 4.3 Flood Prone Land) are minor or justified.

It is recommended that the Delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. Community consultation is required under section 3.34(2)(c) and clause 4 of Schedule 1 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 planning proposal 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 Local Environmental Plans (Department of Planning & Environment August 2016).
2. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with Section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
3. 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).

4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.



16.11.18

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