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27 July 2016

Dubbo Regional office
Department of Planning and Environment
PO Box 58
Dubbo NSW 2800
By email: westernregion@planning.nsw.gov.au

Attention: Ashley Albury

Dear Ashley

PLANNING PROPOSAL PP_2016_ORANG_002_00 – AMENDMENT TO THE ORANGE LOCAL ENVIRONMENTAL PLAN 2011 – REQUEST FOR POST GATEWAY REVIEW

Bob Healy and Company formally requested via correspondence of 22 June 2016 that a post-Gateway review be undertaken for the above planning proposal after it was determined that it should proceed subject to specific conditions.

The planning proposal sought to amend the *Orange Local Environmental Plan 2011* (LEP) to enable the rezoning of land at 339-440 Clergate Road Orange, from a mixture of IN1 – General Industrial and RU1 – Primary Production to a mixture of R5 – Large Lot Residential and E3 – Environmental Management, including necessary changes to the minimum lot size to facilitate rural residential subdivision.

This correspondence provides additional justification for the request post-Gateway review. Supporting documentation, including the planning proposal and supporting reports together with the Orange City Council report and resolution, is provided with this correspondence.

1. BACKGROUND SUMMARY

Bob Healy and Company engaged Geolyse to prepare a planning proposal seeking to amend the LEP to rezone approximately 290 hectares of land in the north of the Orange Local Government Area to a mixture of R5 – Large Lot Residential and E3 – Environmental Management.

The planning proposal was provided to Orange City Council in February 2016. Orange City Council resolved at the Council meeting of the 3 March to support the planning proposal, subject to minor changes, and provide it to DP&E for Gateway consideration. Following the carrying out of the requested minor updates to the master plan layout the planning proposal was provided to the DP&E by Orange City Council on the 6 April. DP&E officially received the planning proposal into the LEP tracking system on the 18 April.

The DP&E reviewed the planning proposal and determined that the planning proposal could proceed subject to the planning proposal being amended and certain conditions being satisfied. The Gateway approval was dated 10 June, received by Orange City Council on the 14 June and provided by Council



to the proponent on the 15 June. The Gateway decision and planning team report were posted to the DP&E LEP tracking website on the 22 June. Notification of the proponent's intention to seek a review of the Gateway approval was provided to DP&E on the same day (22 June).

2. RESPONSE TO ISSUES RAISED AT GATEWAY

The Gateway determination contains eight conditions that must be satisfied prior to the planning proposal being finalised and the new LEP being gazetted. Of specific relevance to this review request is recommendation 1, which states:

1. Prior to community consultation, the planning proposal is to be amended to remove land known as 390 Clergate Road, Lot 15 DP6694 (former Orange Abattoirs, zoned IN1 General Industrial) and 440 Clergate Road, Lots 2 and 3 DP 6694 (zone RU1 Primary Production). This land is to be the subject of a review of the Blayney Cabonne Orange Rural and Industrial Lands Strategy 2008.

It was not immediately apparent on review of the above recommendation whether a review of the *Blayney Cabonne Orange Rural and Industrial Lands Strategy 2008* (BOC Strategy) within the timeframe of the Gateway approval would enable the planning proposal to proceed as lodged. Discussions with Western Region DP&E officers have however confirmed that this is not the case and that any review of the BOC Strategy would be viewed as an enabling provision to allow a future planning proposal to amend the LEP to rezone the land to be lodged.

The Planning Team report prepared for the Gateway identifies the following:

The Department has concerns over the inconsistency of the planning proposal with the BCO Strategy and the implications of reverting potential Industrial land to residential uses. These concerns need to be resolved and contingencies put in place to manage any unforeseen Issues that may arise as a result of the (sic) proposal proceeding to a Gateway determination.

A review of the proposal and amendment to either nominate a smaller area (eg only the SA2 residential designation) or wait until the review of the BCO is satisfactorily completed are options.

DP&E have elected to proceed with the first of the two options. The second option is not explicitly explained in the planning team report however it is understood that this option would have entailed issuance of a Gateway approval obligating the completion of further assessment and analysis, including review of the relevant portion of the BCO Strategy

It is noted that DP&E flagged similar strategic concerns in respect of the recent Orange Airport planning proposal (Orange LEP Amendment 11, PP_2015_ORANG_001_00). The decision in that instance was that a number of additional justification documents, including supply/demand analysis in the context of the BOC Strategy recommendations and economic justification for the industrial land release, were to be provided prior to the planning proposal proceeding.

For the avoidance of doubt, the proponent would not have objected to a decision that was consistent with the above approach.

3. JUSTIFICATION FOR REVIEW

The planning proposal as lodged was conceived to facilitate a high quality rural residential development. A key goal of this was removing the interface conflict between industrial and rural residential land that would occur should development proceed in line with the BOC Strategy recommendations.



The Gateway approval as issued conflicts with this key goal and instead would perpetuate a scenario that would result in future industrial and future rural residential directly adjacent to one another.

The reasons supporting the requested post-Gateway review are outlined as follows:

- Would result in an unacceptable interface conflict between a future rural residential land use on Lots 14 and 25 and industrial land use on Lot 15 and future industrial land use on Lots 2 and 3;
- The area within which the subject site is located is undergoing a Council led transition away from traditional industrial land use to educational and business/commercial land uses (as evidenced by the recently developed Bunnings superstore on land to the south);
- The provision of current and future industrial land in this location would result in a poor planning outcome due to its disconnection with industrial land to the south-west and south-east. This current industrial zoning of Lot 15 reflects a 90 year history of the use of the site as an abattoir, a use that has shown to be no longer viable in the location and, due to its isolation and lack of connection to other industrial land, now bounded by Charles Sturt University and unable to be brought into use for other industrial land uses as demonstrated since its last use as an abattoir some 15 years ago. This one-off abattoir industrial zoning some 90 years ago can be seen today as irrelevant and out of place;
- There is an absence of demand for industrial land in this location as evidenced by Lot 15 (hosting the former abattoir) having lain idle for over 15 years and having been the subject of a prolonged and unsuccessful marketing campaign to locate a tenant or buyer. There is also been a notable lack of interest in proceeding with the rezoning of Lots 2 and 3 to industrial since the BOC Strategy adoption in 2008, with a preference within the LGA for pursuing other more logically located and serviced areas for industrial development. This position is noted to have existed as far back as November 2008 (shortly after the adoption of the BOC Strategy) when Orange City Council resolved (at the OCC Council meeting of 3 November 2008), among other things:

that SA B (North Clergate) be excluded from consideration as an industrial area and retain its current rural planning provisions.

- Sufficient industrial land is provided in the sub-region such that the loss of current and future industrial land occurring as a result of the rezoning of Lots 15 and Lots 2 and 3, which have always retained a rural zoning and were never zoned industrial, to large lot rural residential/environmental management would not result in a shortfall. In the event this assertion was disputed, the recent DP&E support for rezoning of stage 1 (approximately 70 hectares) of a proposed industrial and commercial zoned precinct land surrounding Orange airport sufficiently offsets any loss attributed to the subject site. Future stages of that development (with the potential to provide around 170 hectares) would more than compensate for any perceived reduction as a result of this proposal;
- The planning proposal satisfactorily addresses the requirements of Ministerial S.117 Local Direction 1.1 in that it provides a Local Environmental Study that considers the objectives of the direction in proposing a (partial) inconsistency with the BOC Strategy;
- Development of the future 450 lot subdivision of the land would generate ongoing employment for local construction and building supplies companies for the duration of the ongoing release of land that compensates for any perceived loss of employment land as a result of this proposal;
- The determination would fragment land held in the proponents ownership;
- The undulating nature of the site and extensive waterways makes the site far better suited for rural residential land use than industrial, with high upfront development costs to provide level and buildable industrial land;



- The applicant and current owner of the land would not proceed with the proposal by reference to the Gateway approval for all of the above reasons;
- The applicant and current owner of the land has no intention to pursue amendment of the LEP to facilitate an industrial zoning over Lots 2 and 3 due to the undesirability of this land for industrial land use and the lack of demand for industrial land in this location; and
- The proposal seeks to remove the no longer viable Lot 15 industrial zoning, which is not compatible with the strategically identified rural residential/lifestyle land use identified for this area.

For all of these reasons, review of the Gateway determination is requested to enable the planning proposal to proceed as lodged and supported by Orange City Council.

4. CONCLUSION

The planning proposal as lodged was the result of a carefully considered project seeking to provide appropriately located, fully serviced, large lot rural residential land. The development would represent a consistent release of rural residential land in this locality and would reduce the very high likelihood of interface conflict between future rural residential and industrial land that would occur should the BOC Strategy recommendations proceed as adopted. This issue was considered and recognised by Orange City Council as early as 2008 (shortly after the adoption of the BOC Strategy) whereat it was resolved not to proceed with the use of this strategic area for industrial land uses (resolution dated 3 November 2008).

This position was further reflected via the Orange City Council 2012 Rural Residential Update to the BOC Strategy, prepared by GHD, which identified the majority of the subject site (excluding Lot 15) as suitable for rural residential lots with sizes down to 2,000 square metres. Council's strategic servicing plans are also understood to cover the future release of the site for serviced rural residential lots.

The planning proposal as lodged received the support of Orange City Council in their consideration of the document. We note the following specific comments of the Council in their consideration of the planning proposal:

By removing the industrial potential of the abattoir site (and forgoing the expansion anticipated in the BCO) to be replaced with a high end lifestyle estate, the entire length of Leeds Parade north of the NDR has the potential to grow into a vibrant mixture of education, residential and medical/technology based commerce. Admittedly such a vision would take many years and potentially decades to fully emerge, but would importantly diversify the local economy significantly.

It should be noted that the business park zoning was created as part of the Orange LEP 2011 process and is additional to the employment lands anticipated by the BCO and BCR. As such, this area of the LGA will still retain significant opportunity to host employment generators, the principal difference being a shift away from heavy industry towards "cleaner" businesses. Re-establishment of an abattoir (or similar) with associated odour, noise and heavy vehicle movements would likely discourage take-up of the business park lands.

Council's support for the project and its reflection of Council's vision of the area are considered to be key considerations in the Gateway review process.

Overall the planning proposal represents the proper planning and land release of this area as it resolves the direct interface conflict that would occur should industrial and rural residential lots be developed adjacent to one another. Industrial land is catered for elsewhere in the sub-region and most relevantly



by the recently endorsed release of the approximately 70 hectare stage 1 Orange Airport industrial development.

Please contact the undersigned to discuss any matters raised in the above submission.

Yours faithfully
Geolyse Pty Ltd



DAVID WALKER
Town Planner

No. of Attachments – 2:

1. Completed and signed application form
2. Compiled planning proposal documentation including:
 - a. Planning proposal report
 - b. Assessment of potential site contamination
 - c. Preliminary Biodiversity Assessment
 - d. Aboriginal Heritage Assessment
 - e. Conceptual Servicing Strategy
 - f. Traffic Impact Assessment
 - g. Bushfire Assessment
 - h. Land use analysis
 - i. Masterplan including site sections

