

Lot 81 DP 1202584 and Lot 6 DP 1065578
386 Molong Road (Corner Northern Distributor Road)
North Orange NSW

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Planning Proposal to:

- a) Modify Residential Zoning
- b) Reduce the Minimum Lot Size
- c) Remove the Urban Release Area Overlay

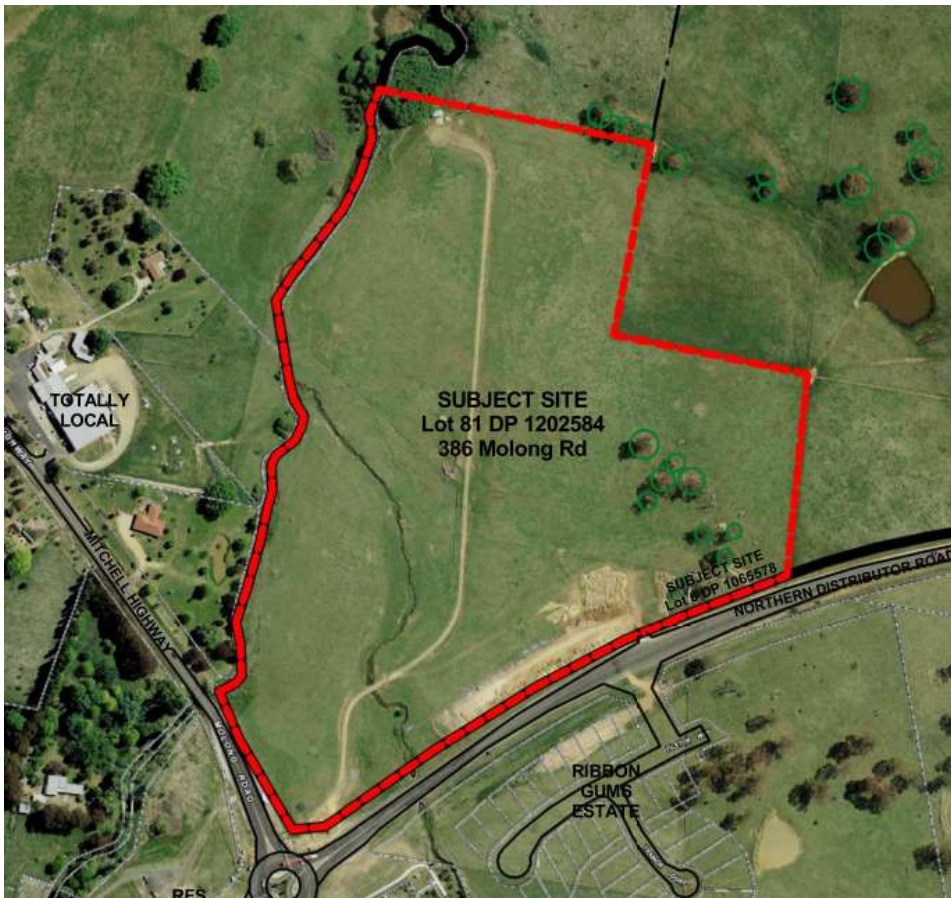


Figure 1: Aerial photo showing Subject Site for this Planning Proposal.

Applicant: Mr GJ Thornberry
c/- **iPLAN PROJECTS**

Lodged with: Orange City Council

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1 Introduction

1.1 Background

The Subject Site comprises two (2) separate allotments known as Lot 81 DP1202584 and Lot 6 DP1065578 commonly known as 386 Molong Road, Orange but with a frontage also to the Northern Distributor Road (See Figure.1 on front page). The owner, Mr Graham Thornberry, is the Applicant for this proposal and is initiating this proposal with support and in consultation with Orange City Council ('Council').

The Subject Site and part of the Study Area is currently within Zone R2 Low Density Residential with a minimum lot size ('MLS') for subdivision of 1000 m² under *Orange Local Environmental Plan 2011* ('OLEP2011'). It is also covered by an Urban Release Area ('URA') overlay that may trigger requirements under Part 6 of OLEP2011 relating to utility infrastructure and a development control plan ('DCP').

Orange is rapidly growing and even with potential land release in South Orange (Shiralee) is in need of additional land suitable for varying lot / dwelling sizes. As Orange grows there is progressively less land suited to higher densities due to site constraints. Therefore, sites like the Subject Site, that are relatively unconstrained offer the potential for increased residential density whilst promoting a variety of lot/dwelling sizes and environmental and landscape opportunities.

1.2 Supporting Information

This Proposal is supported by the attached **iPLAN PROJECTS** (2017) *Subdivision Concept Plan / Report*. This Report provides the site analysis, indicative subdivision concept, and supporting mapping to support the proposed control changes and demonstrate that a suitable development outcome can be achieved and that it would not constrain future development of adjacent lands with appropriate connections.

The Subdivision Concept also offers the opportunity to develop a set of site-specific planning principles/controls that could form part of a future Development Control Plan ('DCP') or future detailed Subdivision Application for the Study Area as the *Orange Development Control Plan* currently has no site-specific controls in place. The aim is to facilitate diversity through a mix of lot sizes and potential dwelling types whilst providing a transition to lower density zones to the west, north and east.

The Site has an existing approval (DA217/2014(1)) for 61 residential lots at a minimum size of 1000m² (plus 1 remnant & 3 open space lots) and that approval has addressed most of the key site constraints and provided some detailed studies that also form part of this Proposal, including but not limited to Sewage Pump Station (Noise & Odour Impact Assessment), Road Noise Assessment, Flood Modelling, and broad road connection systems.

1.3 Process Overview

The Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and the NSW Government Guideline (August 2016) '*A guide to preparing planning proposals*'.

This Planning Proposal has been prepared in consultation with Orange City Council ('Council') and consistent with their feedback and comments. We hope that it may be considered positively and forwarded to the Department of Planning & Environment ('DPE') for a Gateway Determination.

Once a Gateway Determination is achieved it may provide details of any further studies / consultation required by the Applicant / Council to enable the public exhibition and finalisation of the LEP amendments. Please see Part 6: Project Timeline for an indicative timetable of steps to achieve the outcomes in this Proposal.

2 Existing Controls

The following existing controls apply to the Site:

- a) **Land Use Zone (See Figure.2 below):** The Subject Site is predominantly in Zone R2 Low Density Residential but the Ploughman's Creek corridor is Zone RE1 Public Recreation (assumed to be aligned with the banks) with a 20m 'buffer' in Zone E2 Environmental Conservation. Therefore, the existing site is already zoned for residential use (albeit restricting residential uses to lower density housing forms). (The adjacent site to the east is also in Zone R2 – though the site to the north is in Zone R5). This Planning Proposal does seek to amend this map.

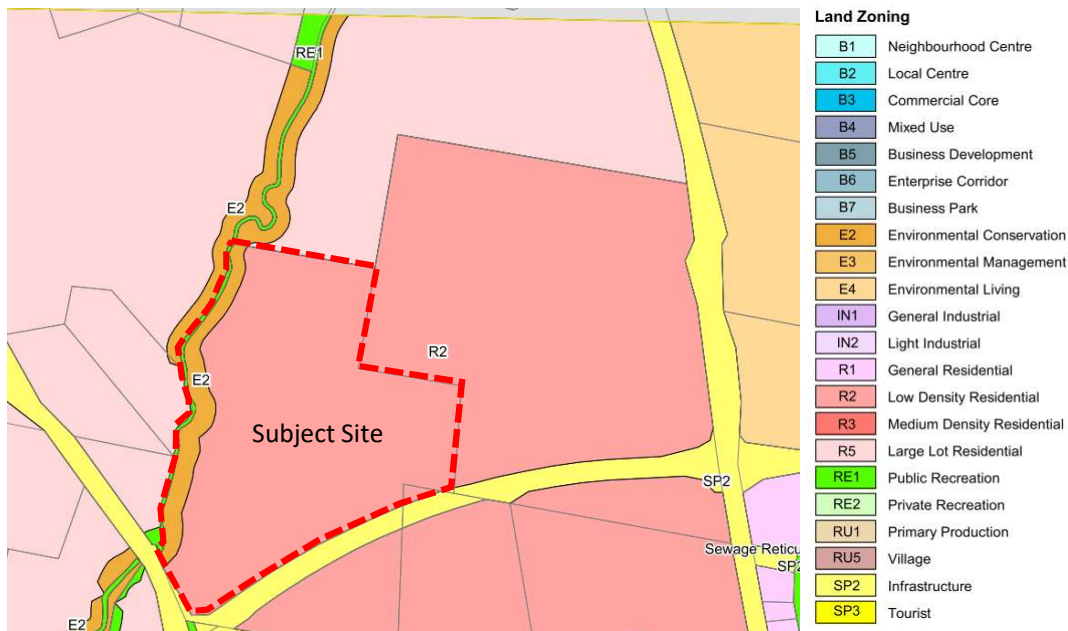


Figure 2: Excerpt of Land Zoning Map (LZN_007B).

- b) **Lot Size (See Figure.3 below):** The Subject Site has a Minimum Lot Size ('MLS') of 1,000m² (as does the adjacent site to the east – though the site to the north has a MLS of 2ha). A 1,000m² lot size is a larger urban block and may not be the most efficient use of this land. There is a need to transition to the lower density lots to the north and west. This Planning Proposal does seek to amend this map.

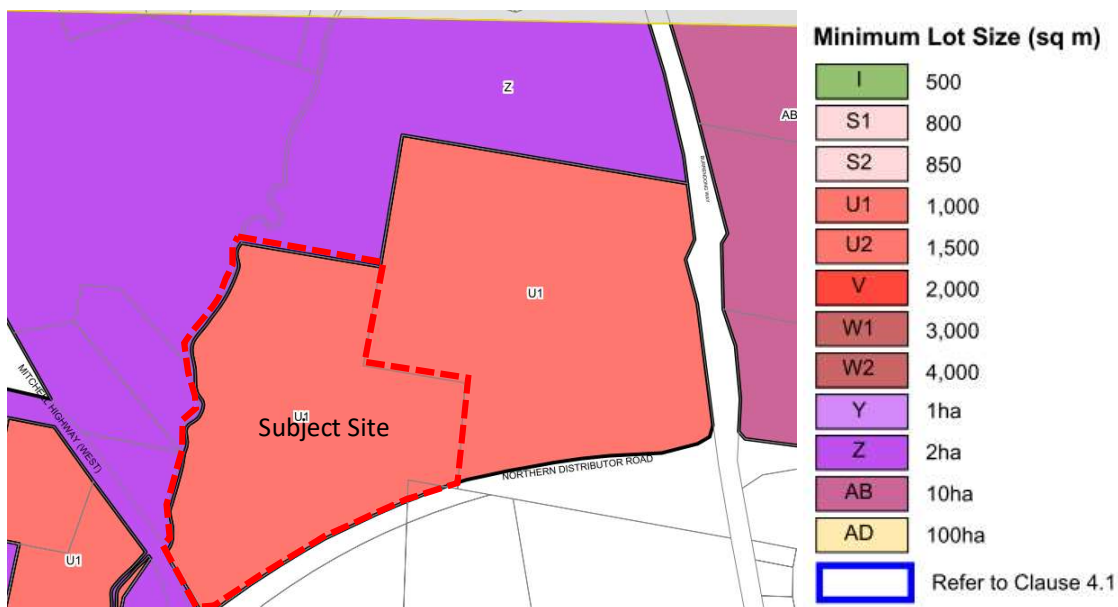


Figure 3: Excerpt of Lot Size Map (LSZ_007B).

- c) **Urban Release Area ('URA') Overlay (See Figure.4 below):** The Subject Site (and the adjacent lot to the east) is included in a URA overlay that means that Part 6 of OLEP2011 applies. If this land seeks to have a reduced minimum lot size then, amongst other matters, it will need to demonstrate sufficient utilities/services and provide a development control plan for detailed design to demonstrate integration with adjacent sites and efficient / suitable development outcomes. The land to the north and west is not currently included in this overlay. This Planning Proposal does seek to amend this map.

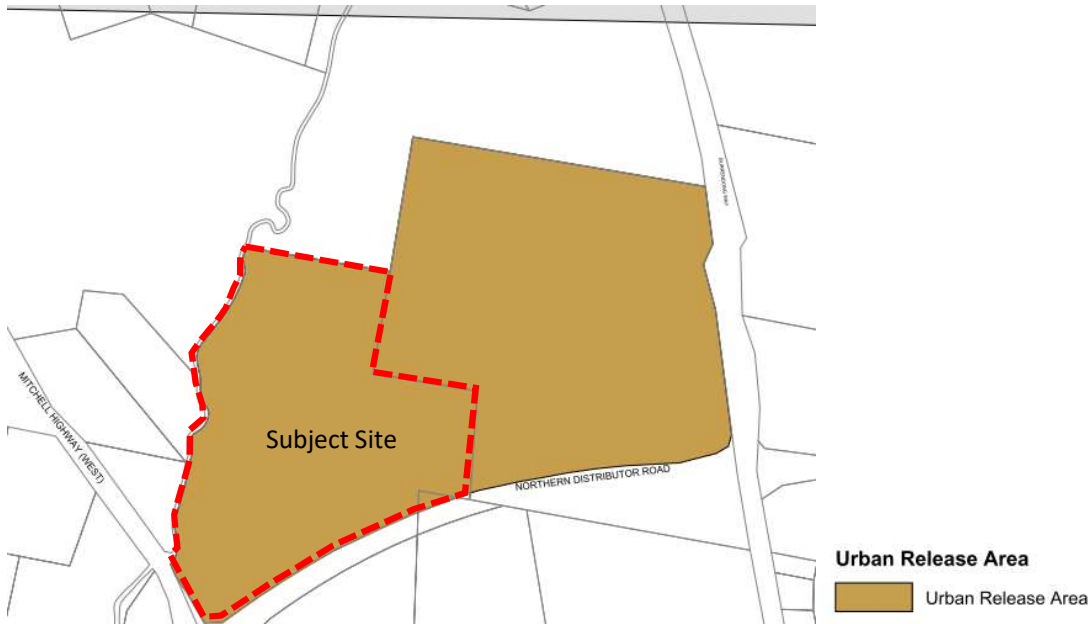


Figure 4: Excerpt of Urban Release Area Overlay (URA_007B).

- d) **Environmental Constraints (See Figure.5 below):** The Subject Site is within a Groundwater Vulnerability area. Within a buffer to Ploughman's Creek (western boundary) it is defined as a sensitive waterway with very small pockets of high biodiversity sensitivity. Otherwise, the site is relatively clear of sensitive biodiversity. This map / control does not need to change as a result of this Planning Proposal.

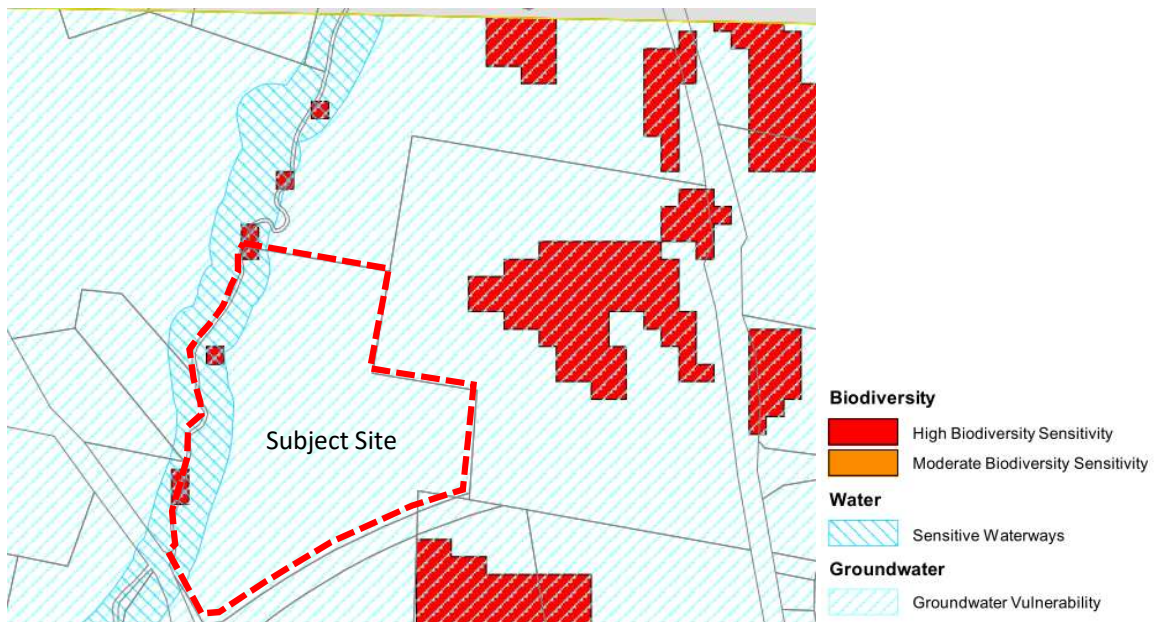


Figure 5: Excerpt of Terrestrial Biodiversity / Watercourse / Groundwater Vulnerability Map (CL2_007B).

- e) **Heritage (See Figure.6 below):** The Subject Site is not listed as a heritage item or in a heritage conservation area but it is noted that there is a heritage item on land to the north-west of the Site. This map / control does not need to change as a result of this Planning Proposal.

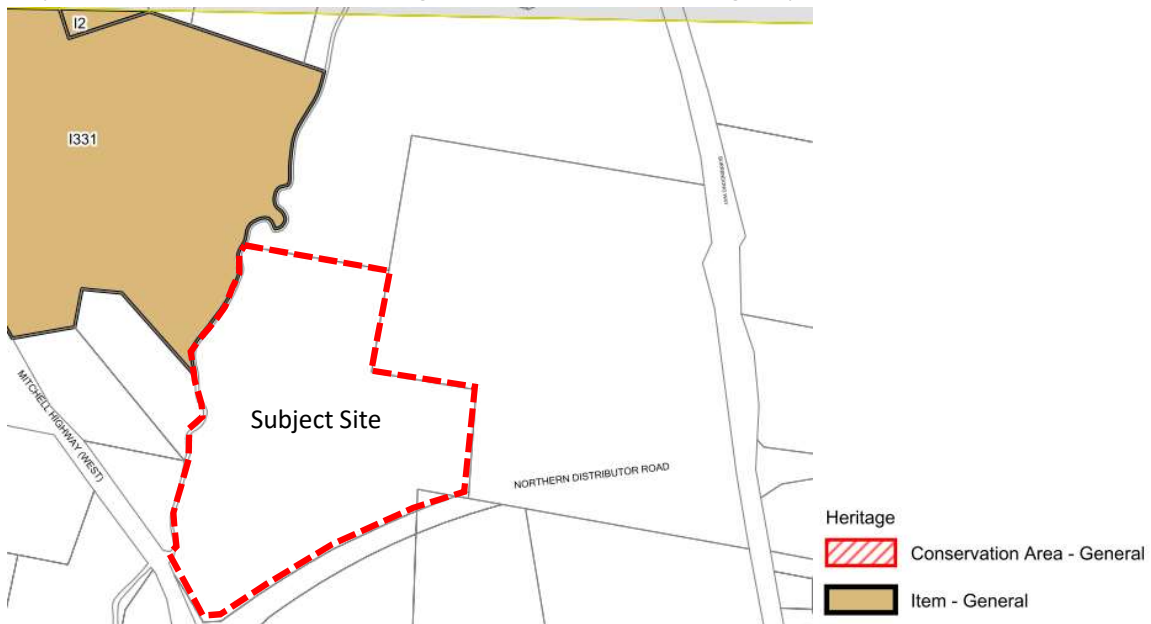


Figure 6: Excerpt of Heritage Map (HER_007B).

- f) **Land Reservation / Acquisition (See Figure.7 below):** The Subject Site is affected by a proposal to widen the Mitchell Highway at the south-western corner of the Site. This may have been taken into account during a recent resurvey of the Site but is allowed for in the Concept for the proposed development. This map / control does not need to change as a result of this Planning Proposal.



Figure 7: Excerpt of Land Reservation & Acquisition Map (LRA_007B).

3 Planning Proposal

The NSW Government Guideline (August 2016) requires the Planning Proposal to address six (6) parts, including:

- Part 1 - A statement of the objectives or intended outcomes of the proposed LEP;
- Part 2 - An explanation of the provisions that are to be included in the proposed LEP;
- Part 3 - The justification for those objectives, outcomes and provisions and the process for their implementation;
- Part 4 - Discusses proposed mapping changes;
- Part 5 - Details of the community consultation that is to be undertaken with the planning proposal. Part 5 would be confirmed following a gateway determination of this Planning Proposal by the Department of Planning; and
- Part 6 – Project Timeline.

3.1 Part 1: Objectives or Intended Outcomes

Part 1 of the planning proposal should be a short, concise statement setting out the objectives or intended outcomes of the planning proposal. It is a statement of what is planned to be achieved, not how it is to be achieved. It should be written in such a way that it can be easily understood by the general community.

The aim is to amend the *Orange Local Environmental Plan 2011* ('OLEP2011') so that it permits greater flexibility with regards to residential density (minimum lot size for subdivision) and residential types (permissible land uses) on the Subject Site that reflects the opportunities and constraints of the land.

The aim is to facilitate a range of lot and dwelling sizes (and dwelling types) to create diverse and sustainable communities, meet residential growth needs for the City of Orange, respond to increasing densities on land to nearby lands and create a suitable transition in density to nearby surrounding lands.

3.2 Part 2: Explanation of Provisions

Part 2 of the planning proposal provides a more detailed statement of how the objectives or intended outcomes are to be achieved by means of amending an existing local environmental plan.

3.2.1 Overview

The proposed objectives(s) / outcome(s) could be best achieved by amending *Orange Local Environmental Plan 2011* ('OLEP2011') for the Subject Site (Lot 81 DP 1202584 and Lot 6 DP 1065578 only), as follows:

- Land Use Zone:** Change the land use zone (on the Land Zoning Map LZN_007B) from the existing Zone R2 Low Density Residential to a mix of zones including Zone R1 General Residential (for the urban areas) and Zone RE1 Public Recreation (recommended) for the remnant areas that form part of the riparian corridors and buffers to watercourses on the Site (see Figure.2 Proposed Zoning Map below).

Reasoning: *Zone R1 is still a residential zone but reflects the increase in density and broader range of permissible dwelling types. Zone RE1 protects the Somerset Creek / Ploughman's Creek corridor and reflects the RE1 zone further upstream in current zoning maps.*

Note: *No change is required to the permissible uses in the Land Use Table for Zone R1 General Residential. No change is proposed to the existing Zone RE1 Public Recreation or Zone E2 Environmental Conservation areas along Ploughman's Creek.*



Figure 8: Proposed Land Zoning Map (indicative).

- b) **Lot Size:** Reduce the Minimum Lot Size ('MLS') (on the Lot Size Map LSZ_007B) for subdivision for the Subject Site from the existing 1000m² to a range of sizes (see Lot Size Map in Subdivision Concept) with smaller compact lots at 250-300m² and medium and larger lots above 500-600m² (see Figure.3 Proposed Lot Size Map below).

Reasoning: This would permit a greater range of housing types and lot sizes to promote a mixed community and meet a wider range of household demands promoting sustainable development of a site that is relatively unconstrained.

Note: No change to Clause 4.1 Minimum lot size for subdivision is required. It is assumed that all lots would be fully serviced by reticulated water, sewer and electricity.

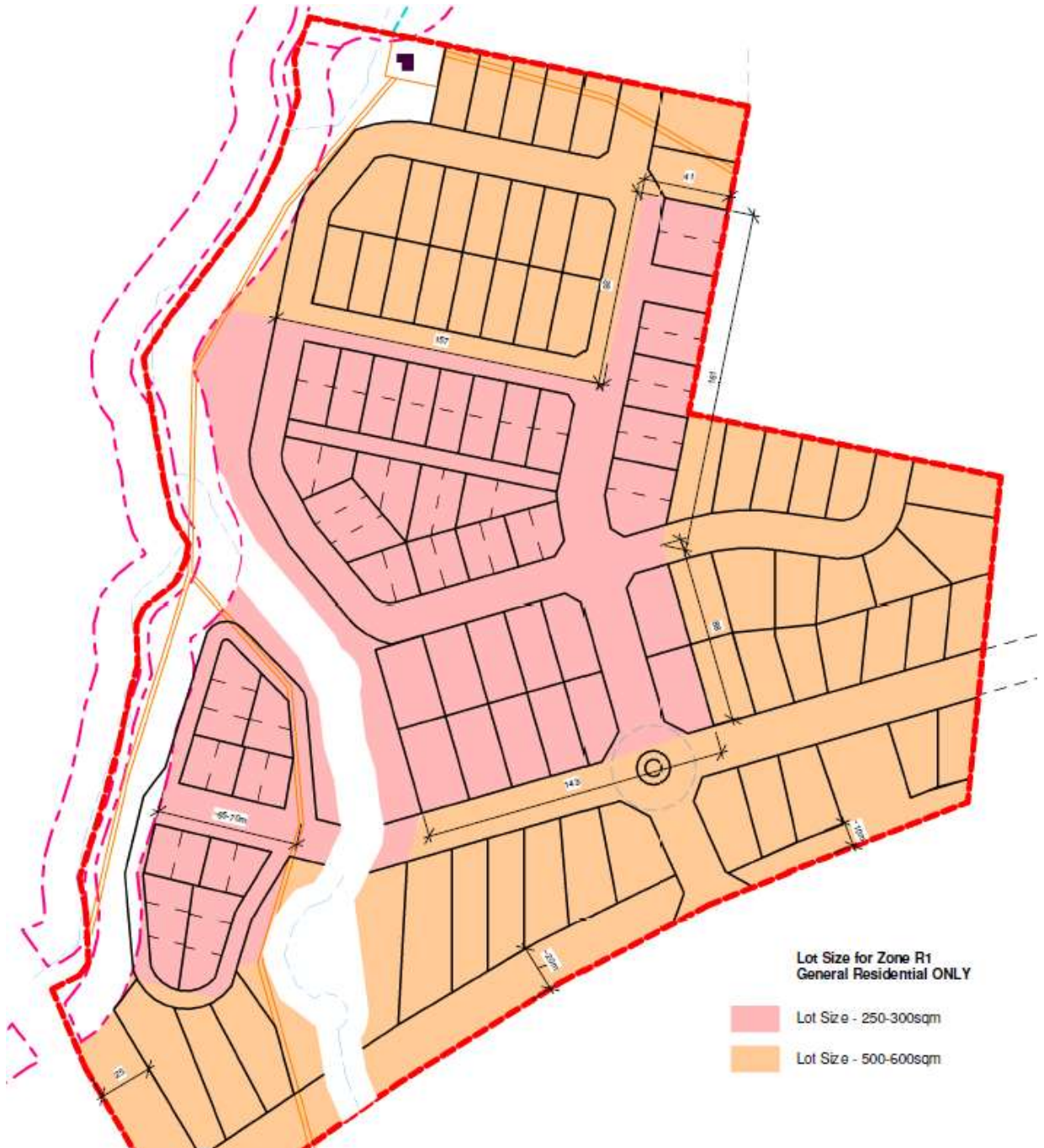


Figure 9: Proposed Lot Size Map (indicative).

- c) **Urban Release Area:** Remove the Urban Release Area ('URA') overlay on the Site (This does not modify it or remove it from adjacent lands).

Reasoning: The URA overlay (and the associated controls in Part 6 of OLEP2011) are not required as sufficient detail has been provided (or can be provided prior to the LEP amendment commencing) to satisfy the requirements for adequate servicing and integration with adjacent lots for efficient development.

Note: This may be subject to agreement with Council to prepare a Development Control Plan ('DCP') for the site prior to the LEP amendments commencing or lodgement of a detailed Subdivision Application aligned with the principles in the attached Subdivision Concept.

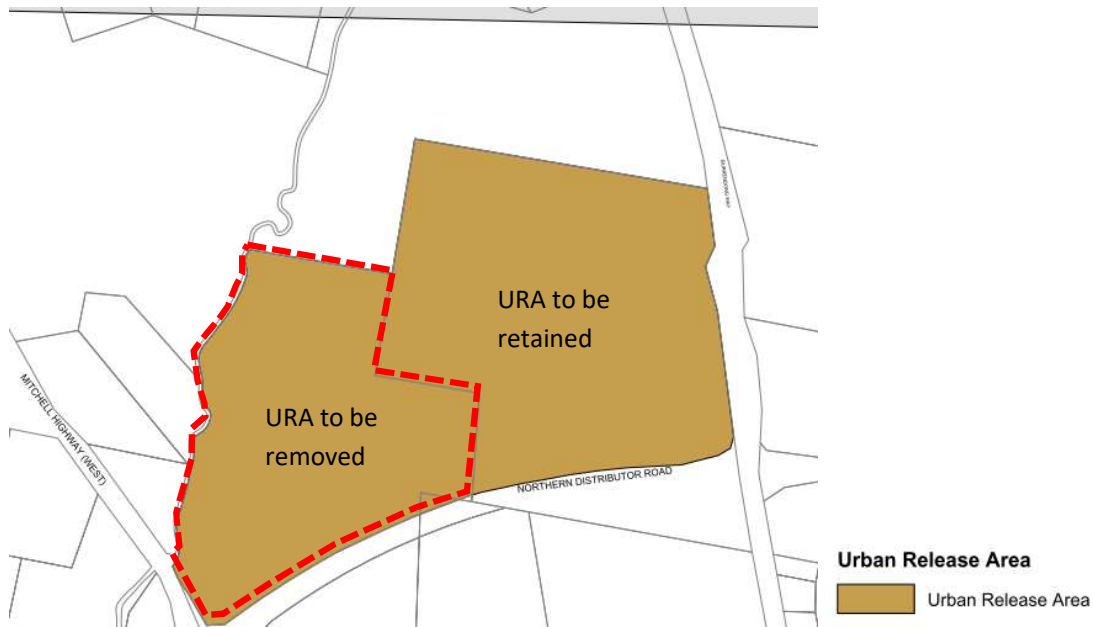


Figure 10: Proposed Urban Release Area Overlay amendment (indicative).

3.2.2 Lot Size Implications

As stated above, Orange is growing relatively rapidly compared to other rural settlements and requires a significant supply of land at suitable densities to meet that demand. Orange's growth is also highly constrained by different factors that include, but are not limited to: the drinking water catchment and watercourse protection, the increasingly sloping topography around the city's perimeter that increases development costs, biodiversity and existing significant trees, heritage and character restraints on infill development, market demands etc.

Where sites are identified that are relatively unconstrained and in reasonable proximity to infrastructure and services then residential densities should be maximised to use land efficiently. This is likely to reduce urban sprawl, reduce consumption of agricultural land for urban purposes, increase efficient use of infrastructure and reduce infrastructure cost and maintenance, and promote more sustainable settlement with improved proximity to services and attractions.

Two (2) proposed lot sizes are recommended including:

- a) Medium and standard size lots with a Lot Size of 500-600m² that would support a single detached dwelling with a moderate to large open space (many of the resulting lots are likely to be larger than this due to site constraints);
- b) Compact lots with a Lot Size of 250-300m² that would recognise the potential for subdivision of larger lots or support dual occupancies with smaller open space areas where satisfactory access and utilities can be provided.

The reduced lot size will effectively mean the potential for increased subdivision, higher residential density, and range of dwelling types and sizes (see Figure.2 Proposed Lot Size Map below) to address changing demands for dwelling needs across a broader spectrum of society.

3.2.3 Land Use Zone Comparison

The existing land use zone for the Subject Site (and land to the east) is Zone R2 Low Density Residential. The proposal is to change this zone into the following zones (see Figure.3 Proposed Zoning Map below):

- a) Zone R1 General Residential for the urban areas (aligned with the lot size areas noted above);
- b) Zone RE1 Public Recreation along the creek / riparian corridors and buffers to roads with the intent that this land is dedicated to Council for public use;

Note that this will not change the existing Zone RE1 Public Recreation or Zone E2 Environmental Conservation areas along Ploughman's Creek.

The following table shows a comparison between the objectives and land use permissibility of the existing Zone R2 Low Density Residential and the proposed Zone R1 General Residential:

Zone R2 Low Density Residential	Zone R1 General Residential	Comment
Objectives - To provide for the housing needs of the community <u>within a low density residential environment</u>. - To enable other land uses that provide facilities or services to meet the day to day needs of residents. - To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement. - To ensure that development along the Southern Link Road has an alternative access.	Objectives - To provide for the housing needs of the community. - To provide for a variety of housing types and densities. - To enable other land uses that provide facilities or services to meet the day to day needs of residents. - To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement. - To ensure that development along the Southern Link Road has an alternative access.	The key difference is in the first objective as Zone R2 specifies providing for housing needs within a 'low density' residential environment, whereas the density is not a restriction in Zone R1. If Council accepts a minimum lot size of 250-300m² through to 500-600m² then we suggest this is not consistent with a low density zone.
Permitted without consent Environmental protection works; Home-based child care; Home occupations	Permitted without consent Environmental protection works; Home-based child care; Home occupations	There is NO change between zones and no impact.
Permitted with consent Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Electricity generating works; Environmental facilities; Exhibition homes; Group homes; <u>Health consulting rooms</u> ; Home businesses; Home industries; Hostels; Information and education facilities; Kiosks; Neighbourhood shops; Places of public	Permitted with consent <u>Attached dwellings</u> ; Boarding houses; Building identification signs; Business identification signs; <u>Camping grounds</u> ; <u>Caravan parks</u> ; Child care centres; Community facilities; Dwelling houses; Electricity generating works; Environmental facilities; Exhibition homes; <u>Exhibition villages</u> ; Group homes; Home businesses; Home industries; Hostels; Information and education facilities; Kiosks; <u>Multi dwelling housing</u> ; Neighbourhood shops; Places of public worship;	The key difference relevant to this application is that Zone R1 permits a broader range of housing types and densities including (but not limited to) attached dwellings, semi-detached dwellings, multi-dwelling housing, residential flat buildings. (Note: Dual Occupancies are a form of 'residential accommodation' and permitted in both zones). It also permits some additional

Zone R2 Low Density Residential	Zone R1 General Residential	Comment
worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Semi-detached dwellings; Serviced apartments; Veterinary hospitals; Water supply systems	Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); <u>Residential accommodation</u> ; <u>Residential flat buildings</u> ; Respite day care centres; Roads; <u>Semi-detached dwellings</u> ; <u>Seniors housing</u> ; <u>Shop top housing</u> ; <u>Tourist and visitor accommodation</u> ; Veterinary hospitals; Water supply systems	business types such as tourist and visitor accommodation. It is our suggestion that Council is looking for a greater diversity of dwelling types and sizes to meet different needs of the population and this additional permissibility is the best way to achieve this.
Prohibited Any development not specified in item 2 or 3	Prohibited Farm stay accommodation; Rural workers' dwellings; Any other development not specified in item 2 or 3	See comment on 'Permitted with consent' above.

We reiterate that existing zones on the Site (e.g. Zone E2 / RE1 along Ploughman's Creek corridor) are NOT affected by the proposal and would retain their current alignment (unless Council wishes to realign these to match changes in the creek corridor).

However, we have also proposed a new Zone RE1 area as a 20m wide corridor along Somerset Creek (10m either side of centreline). This reflects the fact that upstream Somerset Creek is within Zone RE1 (as are most major watercourses through urban land in the City of Orange). This would provide additional protection to the creek corridor. 10m either side is recommended as there may be some limited incursions into the wider 15-20m riparian corridor and 10m is the core riparian area.

3.2.4 Urban Release Area Overlay

The proposal is to remove the Urban Release Area ('URA') Overlay from OLEP2011 for the Subject Site (Lot 81 DP 1202584 and Lot 6 DP 1065578 only). **Note:** The URA Overlay would be retained for the adjacent land to the east (Lot 9 DP1065578).

Part 6 of OLEP2011 sets out additional requirements for Urban Release Areas (see table below). It is intended to be used to ensure that new 'greenfield' release areas are designed to ensure that new infrastructure and layout is efficient, well-designed, well-connected with existing and future development areas, and consistent with agreed planning principles. Many of these matters are best addressed at the subdivision stage.

Under Clause 6.1(2) it is clear that where the minimum lot size is reduced compared to the size prior to becoming an Urban Release Area that it must address these controls.

It is our submission that by agreeing to prepare a Development Control Plan ('DCP') for the Subject Site (and Council also considering any amendments to the Contributions Plan) that builds on the planning principles in the attached Subdivision Concept that this would address the majority (if not all) requirements under Part 6. During the DCP process the Applicant would also work with Council's engineers to develop the utility and servicing arrangements necessary to support the development (and future connections to adjacent sites). This would be agreed prior to the LEP amendments commencing or any Subdivision Development Application. Therefore, the requirements of Part 6 would duplicate those controls and may delay future development applications that are already consistent with the requirements. The removal of the URA overlay over the Subject Site (only) would potentially reduce delay in assessing any future subdivision application without reducing the requirements.

Orange LEP 2011 – Part 6 Urban Release Areas

OLEP Clause	Comments / Compliance
6.1 Arrangement for designated State Public Infrastructure	
(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes	The proposal is for intensive development for urban purposes. However, the only State public infrastructure is likely to be the electricity network.
(2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.	As the lot size is intended to be smaller than the minimum lot size permitted on the land immediately before the land became an urban release area, consent would be required and may require correspondence from the Director-General / Secretary and result in further delay. However, it would be simpler to consult with the Energy Authority as part of the DCP process to ensure satisfactory arrangements.
(3) Subclause (2) does not apply to: (a) any lot identified in the certificate as a residue lot, or (b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.	Not applicable as previous 2014 approval proposed lots at or above 1000m ² (which was the lot size before the URA overlay was added).
(4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).	Not Applicable as site is not in a special contributions area.
6.2 Public Utility Infrastructure	
(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	Council's (December 2015) Report notes that its Technical Services Division has already advised that utilities for a 61 lot subdivision are available to the Site. During the DCP / Contributions plan process the Applicant would work with Council's engineers to develop the utility and servicing arrangements necessary to support the development (and future connections to adjacent sites). This would be agreed <u>prior</u> to the LEP amendments commencing or any Subdivision Development Application.
(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.	As there is an existing approval for 61 lots the increase will only require augmentation of approved connections.

OLEP Clause	Comments / Compliance
6.3 Development Control Plan	
(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.	The Applicant agrees to prepare a DCP prior to the LEP amendments commencing OR a Subdivision Development Application being lodged. This would satisfy the requirements of this clause and avoid duplication. Alternatively Council's (December 2015) Report for the previous DA suggested this is not required as the open space dedications enable an exemption of the DCP clause to be applied (see subclause (4) below).
(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.	
(3) The development control plan must provide for all of the following: (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing, (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists, (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain, (d) a network of passive and active recreational areas, (e) stormwater and water quality management controls, (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected, (g) detailed urban design controls for significant development sites, (h) measures to encourage higher density living around transport, open space and service nodes, (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses, and (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.	These are all matters that can be addressed in the proposed DCP prior to the LEP amendments commencing OR a Subdivision Development Application being lodged. However, to provide increased certainty the Subdivision Concept Report (attached) provides an indicative Staging Plan, Access & Transport Plan (road sizing, vehicles, pedestrians & cyclists), Preliminary Contamination Assessment; Landscape Strategy (protecting riparian corridors, existing significant trees, and key view corridors and providing indicative public park and open space areas that is inter-connected along potential ecological corridors); and a Subdivision Concept Plan that provides indicative urban design and layouts for roads and housing, water management controls, amelioration of natural hazards, and housing densities suited to the site opportunities/ constraints and addressing visual impact issues.
(4) Subclause (2) does not apply to any of the following development: (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots, (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,	Council's (December 2015) Report for the previous subdivision DA (61 lots) suggested that an exemption under subclause(4)(b) as it is a subdivision of land where some of the lots proposed to be created are to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose. Council previously accepted this for the 61 lot subdivision

OLEP Clause	Comments / Compliance
(c) a subdivision of land in a zone in which the erection of structures is prohibited, (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.	on the basis that some lots were for open space dedication. This can be further discussed with Council.

3.3 Part 3: Justification of Proposed LEP Amendments

Part 3 of the planning proposal provides a justification that sets out the case for the making of the proposed LEP. The overarching principles that guide the preparation of planning proposals are:

- *The level of justification should be proportionate to the impact the planning proposal will have;*
- *It is not necessary to address the question if it is not considered relevant to the planning proposal (as long as a reason is provided why it is not relevant);*
- *The level of justification should be sufficient to allow a Gateway determination to be made with the confidence that the instrument can be finalised and the time-frame proposed.*

As a minimum a planning proposal must identify any environmental, social and economic impacts associated with the proposal. Generally detailed technical studies are not required prior to the Gateway determination.

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- *Section A: Need for the planning proposal*
- *Section B: Relationship to strategic planning framework*
- *Section C: Environmental, social and economic impact*
- *Section D: State and Commonwealth interests.*

3.3.1 Section A – Need for the Planning Proposal

1. *Is the planning proposal a result of any strategic study or report?*

The proposal is consistent with existing strategic land use studies for the City of Orange – primarily the Newplan (May 2010) *Orange Sustainable Settlement Strategy Update* ('SSS2010') that updates the (2004) *Settlement Strategy*.

The Site was identified on the Updated Structure Plan within the SSS2010 (see Figure below) as Area LU-2 and a "New Urban Residential Area" in the short / medium / long term (blue). Area LU-2 was identified for 'urban residential' in the 2004 Strategy and urban or large lot residential in the SSS2010. It specifically states:

'Urban (<1,000m² allotments) or large lot (20,000 to 4,000m² allotments) development on land west of Burrendong Way recommended because of the need to use housing land on the fringe of the urban centre more efficiently, and that such development may utilise limited residual capacity in carriers to existing Orange STP. Ploughman's Creek should be managed as a riparian corridor.' [our bold highlights]

Area LU-2 covers not only the Subject Site but also more heavily constrained land to the north and west. Therefore, this Proposal is consistent in that it seeks to reduce the MLS below 1000m² to use housing land more efficiently on the less constrained land (this proposal) whilst other land to the north and west may be

more suitable for large lot residential purposes (not part of this proposal). This is consistent with the two primary lots fronting the Northern Distributor Road being identified as an 'Urban Release Area' in OLEP2011.

This Planning Proposal is consistent with the recommendation to 'consider planning proposal for LU-2 to determine optimum mix of urban and large lots'.

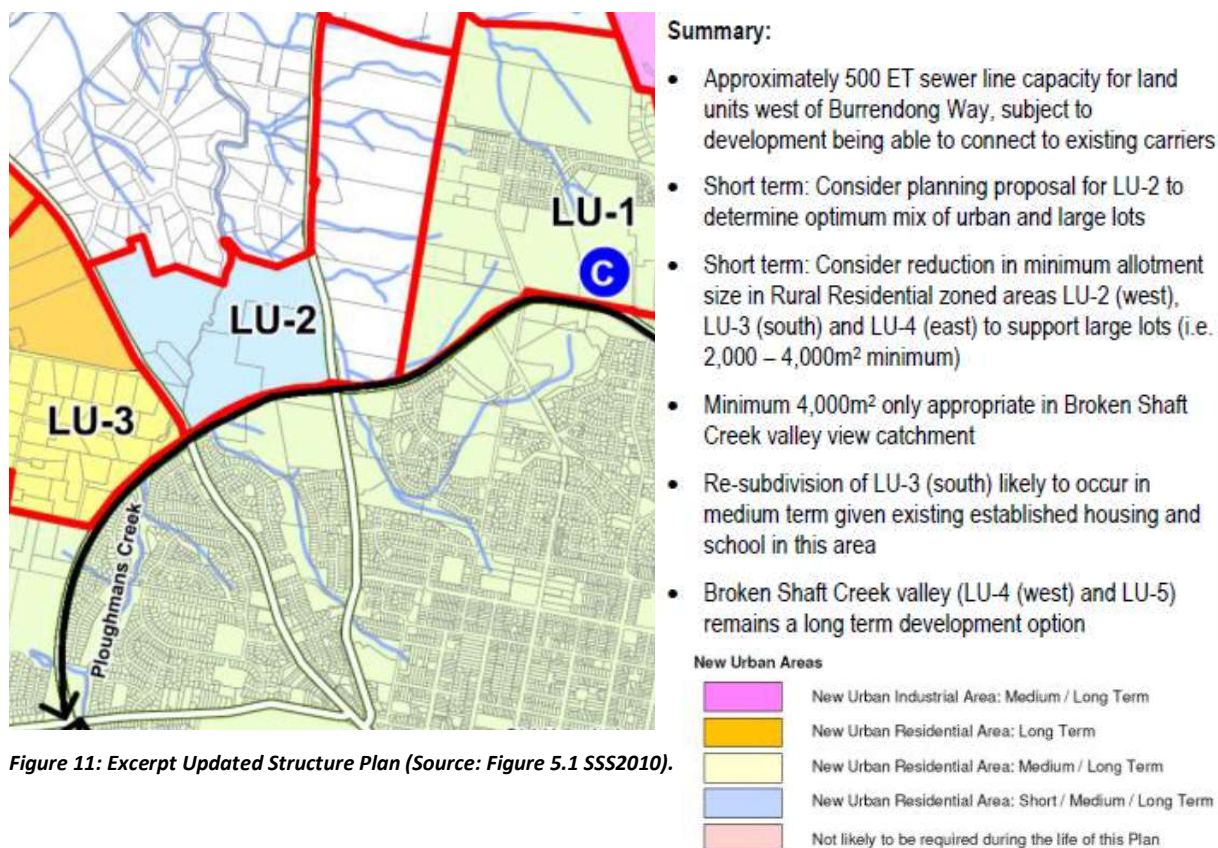


Figure 11: Excerpt Updated Structure Plan (Source: Figure 5.1 SSS2010).

Table 5.1 Potential Development Roles for Structure Plan Areas

Land Unit	Role identified in 2004 SSS		Role identified in 2010 SSS Update		Comments / Actions
	Short Term	Medium to Long Term	Short Term	Medium to Long Term	
Existing Urban	Urban residential	Urban residential	Urban residential	Urban residential	Council to continue to implement policies which encourage infill housing throughout the city, including preparing planning proposals for opportunity sites (marked "*" on the structure plan map).
North					
LU-1	Urban residential	Urban residential	Urban residential	Urban residential	Land unit boundary adjusted to account for environmental constraints east of Burrendong Way. Waratah urban release area currently proceeding.
LU-2	Urban residential	Urban residential	Urban or large lot residential	Urban or large lot residential	Land unit boundary adjusted to account for environmental constraints east of Burrendong Way. Environmental constraints east of Burrendong Way preclude urban residential development. Urban (<1,000m ² allotments) or large lot (2,000 to 4,000m ² allotments) development on land west of Burrendong Way recommended because of the need to use housing land on the fringe of the urban area more efficiently, and that such development may utilise limited residual capacity in carriers to existing Orange STP. Ploughmans Creek should be managed as a riparian corridor.
Land north of LU-2 'Beer Road Area'	Rural	Urban residential	Rural	Rural	Land identified as potential future urban in original SSS, but now not considered appropriate for urban development because of relative remoteness from existing and proposed urban area.

Figure 12: Excerpt of Potential Development Roles for Structure Plan Areas incl. LU-2 (Source: Table 5.1 SSS2010).

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal is the only way to achieve the intended outcomes as it requires a reduction in minimum lot size and potentially a rezoning to achieve the development outcomes suggested in the Subdivision Concept Plan. Land zoning, minimum lot size, and urban release area overlays are set by OLEP2011 and can only be modified by Planning Proposal / LEP amendment.

It would not be appropriate to apply 'Clause 4.6 Exceptions to development standards' to the Minimum Lot Size as the variation is too great to assume the Secretary's (DPE) concurrence and would set an inappropriate precedent for variation to key controls. The Planning Proposal is the most appropriate way to provide a transparent change to key LEP controls consistent with applicable land use strategies and community input.

The proposed development is not of a scale to be considered 'State or Regionally Significant' such that amendments to State Environmental Planning Policies ('SEPPs') would be appropriate to sit above and amend OLEP2011.

The potential methods for achieving the outcomes through amendments to OLEP2011 include map changes, clause changes, schedule changes, and land-use table changes. Our justification for the methodology above (mapping changes only) is as follows:

- a) **Schedule changes:** It is our understanding that the NSW Government does not readily support site-specific changes to schedules, for example, through Additional Permitted Uses, unless there is a specific reason that an alternate zoning/land use controls cannot be modified for the Site. It would also create an inconsistency between the land use mapping controls for the site and the schedule, reducing transparency;
- b) **Land use table changes:** Land use table changes are not appropriate because it is not the wording of the clauses that is the issue but the relevant 'category' in lot size / land use zone / urban release area that restrict the proposed development (i.e. it is a spatial amendment). Land use table changes could also have implications for other sites with a similar zone;
- c) **Clause changes:** Clause changes are not appropriate because it is not the wording of the clauses that is the issue but the relevant 'category' in lot size / land use zone / urban release area that restrict the proposed development. Clause changes could also have implications for other affected sites that were not intended.

Therefore, the most appropriate 'tool' or methodology is to amend the mapping in OLEP2011 applying to the Site so it is a 'site-specific' outcome that does not affect other sites and creates a transparent connection between the land use controls and the intended development outcomes for the Site.

3.3.2 Section B – Relationship to Strategic Planning Framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?*

The most significant regional strategy is the *Draft Central West and Orana Regional Plan 2016* ('Regional Plan'). However, it is important to note that this is in draft only and subject to change and is not expected to be finalised until later in 2017.

Figure 19 (below) of the Regional Plan highlights that the Site is an Urban Release Area. The only inconsistency is that the Draft Plan considers the Site as a low density residential area (on the basis of its Zone R2 Low Density Residential classification). We note however that correspondence with the Dubbo

Office of DPE preparing the plan suggests that the ‘low density residential’ component of this annotation has been removed after exhibition. Regardless, the map is a static representation of development opportunity and the proposal is supported by justification for improved efficiency of use of land.

We again submit that even with the Shiralee Urban Release Area to the south there are limited areas for medium density housing solutions on green-field sites in close proximity to services so the minor inconsistency is justified and to-date Council has been supportive of the change in zoning/density on the Site.

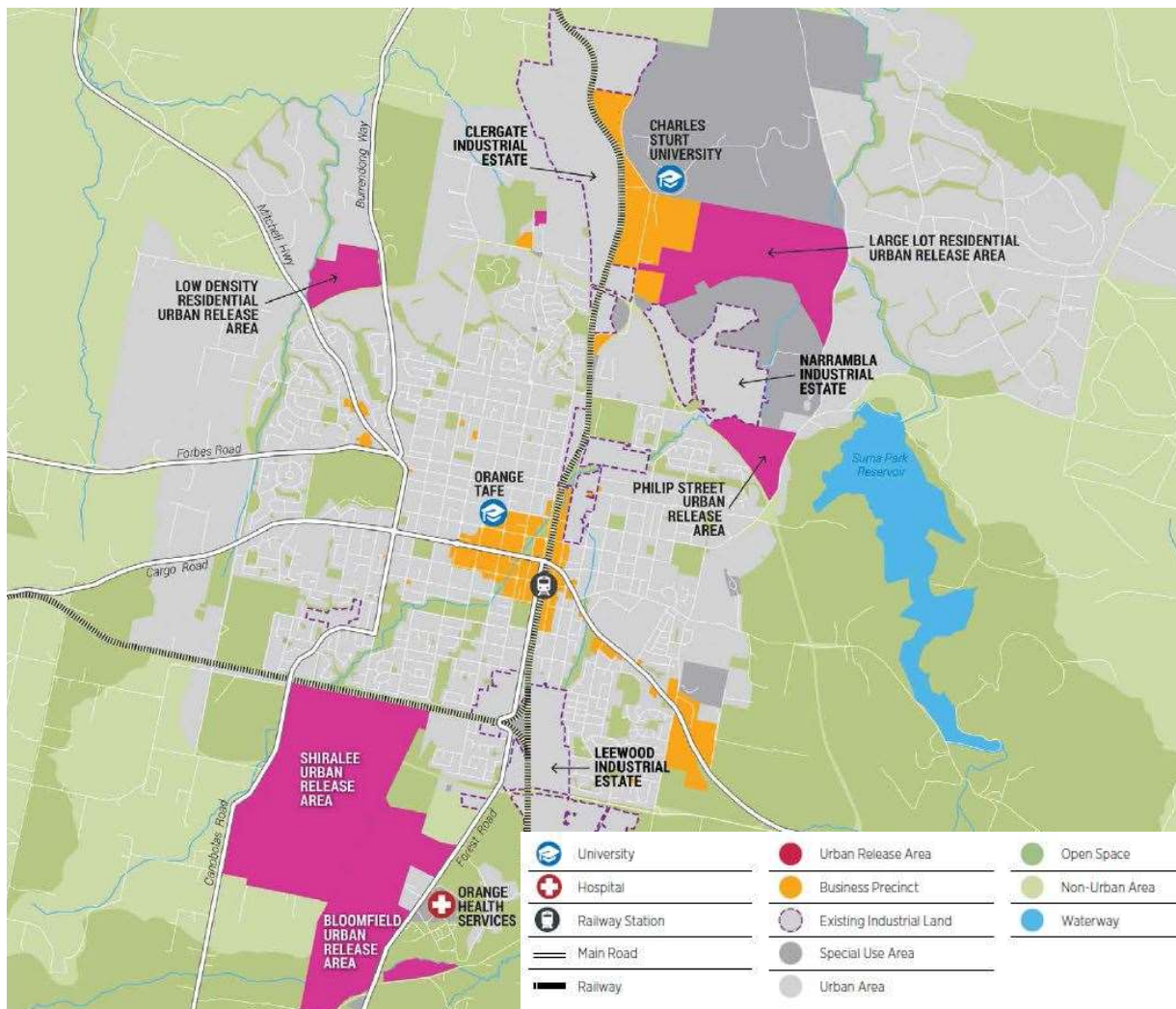


Figure 13: Orange Regional City (Source: Draft Central West & Orana Regional Plan – Figure 19).

The Regional Plan outlines four goals and directions to achieve desired outcomes. The following Goals / Directions / Actions are relevant to this Proposal and addressed below:

Goal / Direction / Action	Comments
Goal 2 – A region with strong infrastructure freight transport and utility infrastructure networks that support economic growth	
Direction 2.2 Coordinate infrastructure delivery to facilitate economic opportunities	Orange is exhibiting reasonably high levels of growth and demand for residential land which places greater demand on existing and future infrastructure. Where there is existing infrastructure then it needs to be used efficiently and effectively to reduce the costs of development and need for new infrastructure. This proposal seeks to increase potential

Action 2.2.1 Coordinate the delivery of infrastructure to support the future needs of residents, business and industry	development densities and is within the known capacities of existing networks (with minor augmentation).
Goal 3 – A region that protects and enhances its productive agricultural land, natural resources and environmental assets.	
Direction 3.1 Protect regionally important agricultural land Direction 3.4 Manage and conserve water resources across the region Direction 3.5 Protect and manage the region's environmental assets Direction 3.6 Protect people, property and the environment from exposure to natural hazards and build resilient communities Action 3.6.3 Support communities to build resilience to the impacts of natural hazards and climate change	Whilst the Site is currently used for agricultural purposes it is not zoned for rural use and has been identified for urban expansion. It is not regionally significant agricultural land. Therefore, it will not affect Direction 3.1. Although not within an irrigation basin, the proposed development aims to maintain healthy water resources by protecting the watercourses with sufficient natural buffers. The Subdivision Concept Plan demonstrates how the limited environmental assets on or near the Site can be protected whilst allowing for increased density of residential development in accordance with Council's land use strategies. The major natural hazards in the region are fires and floods. Although in the proximity to bushfire prone lands to the north of the Site, there are no bushfire prone lands directly in or adjacent to the Site. Flood analysis undertaken by Geolyse has identified appropriate exclusion zones for new housing and this is satisfied in the Subdivision Concept Plans. The land is relatively unconstrained compared to other land to the north, west and east so it is an ideal site for increased development potential. More efficient and better serviced lands are more likely to be sustainable in the longer term.
Goal 4 – Strong communities and liveable places that cater for the region's changing population	
Direction 4.1 Manage growth and change in the region's settlements Action 4.1.1 Support the role and function of the regional cities and regional centres	Orange is one of the key regional cities that will experience significant growth and demand for new dwellings in this Region. The Proposal to increase residential densities in a location which is quickly transitioning to urban residential with good access to services and utilities is consistent with supporting the role and function of Orange. The potential varying sizes and types of lots / housing is expected to address a greater variety of household sizes and demands and promote an integrated and sustainable community. Protection of environmental assets and lifestyle will also support this action.
Direction 4.3 Increase and improve housing choice to suit the different lifestyles and needs of the population Action 4.3.1 Deliver enabling planning controls that facilitate an increased range of housing choices, including infill	There is also a growing need for housing diversity to meet the needs of the growing population with many socio-economic backgrounds including seniors living and smaller properties for younger families and investors. Whilst this is a 'greenfield' site it effectively forms infill development between the North Orange / Waratah growth area and North-West Orange / Ploughman's Lane developments. The location of the Site and

housing close to existing jobs and services. Action 4.3.2 Facilitate a more diverse range of housing for seniors	close proximity to transport infrastructure, North Orange shopping centre, and open space and recreation means a practical solution for Orange housing development.
Direction 4.4 Enhance community access to jobs and services by creating well-connected places, designed to meet the needs of a regional community.	Growth in Orange has extended beyond the Northern Distributor Road. However, in general Orange is a compact city with the Site only several kilometres to the main CBD and close to the North Orange shopping centre. The Subdivision Concept suggests ways to facilitate improved pedestrian and cycle access that can link into city-wide networks. It also suggests road connections and access points that facilitate development of adjacent lands and road safety and efficiency.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

As discussed above, the SSS2010 provides the most relevant context for local strategy or plans for residential development including identification of the Site as part of Urban Land Release Area LU-2 and recognition that the majority of Orange's residential growth would be to the north and north-west of the City.

The Site was identified on the Updated Structure Plan within the SSS2010 as Area LU-2 and a "New Urban Residential Area" in the short / medium / long term (blue). Area LU-2 was identified for 'urban residential' in the 2004 Strategy and urban or large lot residential in the SSS2010. It specifically states:

'Urban (<1,000m² allotments) or large lot (20,000 to 4,000m² allotments) development on land west of Burrendong Way recommended because of the need to use housing land on the fringe of the urban centre more efficiently, and that such development may utilise limited residual capacity in carriers to existing Orange STP. Ploughman's Creek should be managed as a riparian corridor.' [our bold highlights]

The recommendations of that report are briefly summarised in Question 1 above and the Proposal is broadly consistent with that Strategy though the updated Strategy is now over 6 years old and unlikely to reflect Council's current supply/demand. The Subject Site is the best location for Short Term Growth with potential to extend to the adjacent sites in the future. SSS2010 clearly identifies that lots less than 1000m² are suited to short-term growth areas, and are likely to increase in size to the north.

At the time of the update the supply was seen to be less than the intended supply of 10-20 years demand. There were subsequent changes to OLEP2011 to increase land supply (including the Shiralee development) but there has not been a recent update to supply/demand.

Anecdotal evidence suggests that larger urban release areas (such as Shiralee) have been slow to develop due to site and servicing constraints and other easier parcels have already been developed. This proposal recognises that adjacent urban densities (including 'Ribbon Gums' and 'North Orange / Waratah') have developed to higher densities and it is a logical progression to increase density on this Site.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

An analysis of the applicable State Environmental Planning Policies (SEPP) is included on the table below. It is noted that the proposal is either consistent or not inconsistent to any applicable SEPP's.

SEPP (Infrastructure) 2007

This SEPP is concerned with appropriate opportunities for infrastructure development throughout the State and protecting that infrastructure from incompatible development. For this Planning Proposal the

only infrastructure that may be affected by the Proposal is the adjacent Mitchell Highway and Northern Distributor Road as well as Council sewage infrastructure on the Site. The increased density may also increase demand on existing utilities and road infrastructure.

The relevant section is Part 3 Division 17 Roads & Traffic. This is a Planning Proposal to modify the OLEP2011 Controls – not an application for approval to conduct works affecting road infrastructure.

Impact on Classified Roads

Subdivision 2 (Development in or adjacent to road corridors and road reservations) states under Clause 101 (Development with frontage to classified road) that the objective is that new development does not compromise the effective and ongoing operation and function of classified roads. Mitchell Highway is a classified road (State Highway). The NDR is not a currently listed classified road (though it is understood the intent of Council is that the RMS will take responsibility for this road at some stage in the future and it will most likely be a classified road).

The Proposal is consistent with Clause 101(2) in that no vehicular access to the land is provided to the Mitchell Highway. Vehicular access is only via the existing approved intersection with the NDR.

Residential building envelopes (indicative) are well setback from the Highway to ameliorate potential traffic noise on residential amenity. There is unlikely to any other impacts such as smoke or dust (with appropriate construction controls during earthworks). Therefore, the safety, efficiency and operation of the Mitchell Highway is unaffected by the proposal. **Proposal Complies.**

Road Noise

Clause 102 (Impact of road noise or vibration on non-road development) applies to roads with an annual average daily traffic volume of more than 40,000 vehicles AND that the consent authority considers is likely to be adversely affected by road noise or vibration. The Mitchell Highway only has traffic volumes of 1,275 (north of Molong – RMS Traffic Volume Viewer). It and the NDR are unlikely to meet the traffic volumes specified in this clause and therefore, this clause is **Not Applicable**. It is this Clause that makes applicable the former DoPI *Development near Rail Corridors and Busy Roads – Interim Guideline* that sets out detailed requirements to manage road noise impacts on proposed sensitive uses so we would submit that these guidelines are **not applicable** but can inform the development in accordance with DCP controls.

Regardless, it is understood that Council seeks to maintain or improve residential amenity and protect its road infrastructure by requesting noise reports to support subdivision and dwelling applications in proximity to these key roads. As part of the 61 lot Subdivision Application an Acoustic Report was lodged entitled Blackett Acoustics (Sept 2013) *Thornberry Development – Development Application (DA) Acoustic Assessment*. **We submit that this Acoustic Report is still applicable to the Proposal because the Subdivision Concept Design retains similar or increased setbacks to the NDR for any proposed housing compared to the Approved Subdivision (see Comparison in Subdivision Concept).** It is acknowledged that the Acoustic Report did not assess proximity to the Mitchell Highway as the remnant lot on the south-western ‘knoll’ was not subdivided at the time but it is possible to create a reasonable approximation of appropriate setbacks for this area.

The Acoustic Report notes that there are different Categories of Recommended Building Construction (to ameliorate road noise) and the buildings / lots that have direct frontage to the NDR fall in Category A whilst the remainder of the lots are in Category B (see excerpt from Figure 5-4 of Acoustic Report below). Table 5-2 in that report then sets out the recommended construction details for each category noting that Category A lots near the NDR only require slightly improved glazing to meet the maximum noise requirements in the Interim Guidelines whilst Category B has standard glazing and insulation (subject to final building design & layout). This may require mechanical ventilation to some buildings as an alternative to opening windows. It is important to note that Council has approved the 61 lot subdivision that

specified these requirements (with conditions). It is also important to note the Subdivision Concept proposes similar setbacks to the NDR and maintains a minimum lot size of 800-1000sqm.

We suggest that in order to achieve a positive Gateway Determination there is sufficient information in the Acoustic Report (2013) and no further acoustic report is required at this time. Updated Acoustic reporting can occur at the time of preparation of the Subdivision Application (DA) or be appropriately conditioned (as per the 2014 Approval).

Figure 14: Excerpts of Noise / Construction Categories from Acoustic Report (2013) – Figure 5-4 and Table 5-2.

Figure 5-4 Category of Recommended Building Construction Required



Table 5-2 Recommended Building Construction

Category	Building Element Recommended Construction***	
	Glazing**	Ceiling/roof
A*	6.38mm laminated glass with a R_w rating of 32	Insulation (similar to R2.0 Bradford Gold Ceiling Batts, nominal thickness 115mm) in roof cavity and ceiling consisting of 1 layer of 13mm Fyrchek plasterboard. This assumes that the ceiling cavity is not less than 200mm at any point.
B	Standard glazing i.e. 4mm float glass with a R_w rating of 25	Insulation (similar to R2.0 Bradford Gold Ceiling Batts, nominal thickness 115mm) in roof cavity and ceiling consisting of 1 layer of 13mm Fyrchek plasterboard. This assumes that the ceiling cavity is not less than 200mm at any point.

* It is recommended that considerations to the building orientation and layout of sleeping spaces to be situated away from the façade fronting Northern Distributor Road.

** All glazing areas require good acoustic perimeter seals and mohair seals are not considered as adequate seals acoustically.

*** 13mm Fyrchek plasterboard can be replaced with 10mm Soundchek plasterboard.

It is clear from the Conditions to DA217/2014 below that Council would prefer recommended noise levels to be achieved without additional construction methods – but subject to the physical ability to mitigate noise using other approaches – is willing to consider construction mitigation methods. The Subdivision Concept clearly shows that some additional mitigation could be adopted through earth mounding, noise

fencing, and screening. This can be further tested as part of the Subdivision DA and demonstrates the intended outcomes (where lots are setback similar to the approved development) is feasible.

(12) The applicant shall submit for Council approval a revised acoustic report from a qualified acoustic engineer detailing measures required to be implemented as part of the construction of this subdivision, including heights, materials, design and placement of barriers so as to ensure that future residential development for lots affected by noise from the Northern Distributor and Molong Road have noise intrusion minimised.

(13) Noise attenuation measures shall be provided adjacent to the Northern Distributor Road and Molong Road, such as earth mounding acoustic barriers or the like during the construction of the subdivision so that the noise criteria specified in Table 3.1 of the 'Development Near Rail Corridors and Busy Roads – Interim Guidelines' are achieved at the nearest residential building likely to be constructed at each point along those roads. Details of the proposed attenuation measures shall be provided to Council prior to the issue of a Construction Certificate.

(Note Physical Noise attenuation measures may be provided in future dwellings to supplement subdivision scale measures where it is not physically practicable to meet the standards referred to above, such as at road openings and the like.

Figure 15: Excerpt of Conditions of Consent from DA217/2014 Approval relating to Road Noise Mitigation.

Traffic Generation / RMS Referral

Clause 104 (Traffic-generating development) refers to Schedule 3 of the SEPP that determines what size of development would require referral to, and concurrence from, the RMS. In Schedule 3 'Subdivision of Land' it would be triggered by 50 or more allotments with access to a classified road (not applicable) or to a road within 90m of a classified road. The proposed access to the NDR is in excess of 200m from the Mitchell Highway so this threshold is **not applicable**. The alternative threshold is 200 or more allotments where the subdivision includes the opening of a public road. The Subdivision Concept only involves around 90-120 lots (approximate) so this threshold is **not applicable**. Therefore, referral to the RMS is **not mandatory**. However, as the NDR may be a classified road in the future – as a matter of courtesy the Applicant would not object to an informal referral to RMS – though their comments are guidelines only and not required to be considered under Clause 104 of SEPP (Infrastructure).

SEPP No 55 – Remediation of Land

This SEPP seeks to promote remediation of contaminated land and reduce the risk of harm to human health – to be considered when rezoning land or consenting to development on land. In particular Clause 6 states that a planning authority should not rezone land if it would permit a change of use of that land unless an assessment of contamination has been made, and if contaminated the authority is satisfied that the land is suitable in its contaminated state for the purpose OR is capable of being remediated to a level suitable for that purpose.

The Subdivision Concept provides a review of Site History and Potential for Contamination on the Subject Site. It states that a Preliminary Stage 1 Contamination Assessment would suggest that there have not been any potentially contaminating uses on the Site within Table 1 to the contaminated land planning guidelines and the land is not in an investigation area so we suggest no further assessment is required. This is a proposal to increase residential density in an existing urban residential zone, not to change the broad permissible land uses or zone category. In addition, there is an existing approval for a 61 lot residential subdivision across the Site and as part of that approval no contamination was identified or further remediation works required. Therefore, we suggest that this Proposal is consistent with the existing and proposed zone, the SEPP requirements, and the Contamination Guidelines. **Complies.**

SEPP (Building Sustainability Index: BASIX) 2004

Any dwellings that are created as a result of the proposed amendments will be subject to SEPP (BASIX) and full BASIX assessment will occur at the time of the Dwelling Development Applications. The Subdivision

Concept has been designed to maximise potential for passive solar and reduced energy and water usage so the objectives of this SEPP can be achieved. Complies.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007 There are no known mineral or extractive resources in or near the Subject Site that would be affected by the proposal. This is a proposal to increase residential density in an existing urban residential zone. Not Applicable or Complies.
SEPP No 64—Advertising and Signage This SEPP governs advertising and signage in all zones. The Planning Proposal does not affect any potential signage that will form part of any future DA for Subdivision or Dwellings on the lot. Not Applicable.
SEPP (Rural Lands) 2008 Whilst the land is currently utilised for extensive agriculture (grazing) it is already in Zone R2 Low Density Residential so it is not zoned for agricultural use. This policy aims to facilitate the orderly use and development of rural lands, identify Rural Planning Principles and Subdivision Principles for rural lands, reduce land conflicts, and identify State significant agricultural land. It is suggested that this SEPP is Not Applicable to this Proposal as these are not rural zoned or agricultural lands and there is an existing approval for a 61 lot residential subdivision over the site.
SEPP (State and Regional Development) 2011 This SEPP seeks to facilitate state and regionally significant development above a certain investment value. The cost of works and staging will be determined as part of any future Subdivision / Dwelling DAs. Not Applicable.
SEPP No 44—Koala Habitat Protection Orange is not a listed LGA to which this SEPP applies. Not Applicable.
SEPP No 21—Caravan Parks & SEPP No 36—Manufactured Home Estates The aim of these two policies is to encourage and facilitate development of caravan parks (and thereby also permit manufactured home estates) in certain zones/areas. It is not the current intent of the Applicant (as evidenced by the Subdivision Concept Plan) to seek approval in the future for a Caravan Park or MHE. Not Applicable at this time.
SEPP (Affordable Rental Housing) 2009 & SEPP (Housing for Seniors or People with a Disability) 2004 The aim of these two policies is to encourage and facilitate development of affordable rental housing and housing for seniors or people with a disability. It is not the current intent of the Applicant (as evidenced by the Subdivision Concept Plan) to seek approval in the future for these development types. Not Applicable at this time.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table is a summary of the Section 117 Directions and their applicability. Relevant Directions have been addressed in detail below.

Section 117 Direction		Applicable to Planning Proposal?
1. Employment and Resources		
1.1	Business and Industrial Zones	No. It is an existing residential zone.
1.2	Rural Zones	No. It is an existing residential zone. No impact on existing environmental protection zone boundary along Ploughman's Creek.
1.3	Mining, Petroleum Production and Extractive Industries	See response below.
1.4	Oyster Aquaculture	No.
1.5	Rural Lands	No. It is an existing residential zone.
2. Environment and Heritage		
2.1	Environment Protection Zones	See response below.
2.2	Coastal Protection	No. Not in coastal protection area.
2.3	Heritage Conservation	See response below.
2.4	Recreation Vehicle Areas	No. Recreation vehicle areas are not part of the intent of this residential subdivision.
2.5	E2 / E3 Zones & Environmental Overlays in Far North Coast LEPs	No.
3. Housing		
3.1	Residential Zones	See response below.
3.2	Caravan Parks and Manufactured Home Estates	As discussed re SEPPs above, this is not a proposal for Caravan Parks or MHE at this time. Rezoning is in accordance with this Direction.
3.3	Home Occupations	Home occupations are permissible without consent in proposed Zone R1 General Residential. Complies.
3.4	Integrating Land Use and Transport	See response below.
3.5	Development Near Licensed Aerodromes	No. None nearby.
3.6	Shooting Ranges	No. None nearby.
4. Hazard & Risk		
4.1	Acid Sulfate Soils	No. None known.
4.2	Mine Subsidence and Unstable Soil	No. Not in a mine subsidence district or identified as unstable land.
4.3	Flood Prone Land	See response below.

4.4	Planning for Bushfire Protection	No. According to the Bushfire Prone Land Map (2008) on Council's website the Site is not affected by or in proximity to land mapped as bushfire prone land.
5. Regional Planning		
5.1	Implementation of Regional Strategies	No.
5.2	Sydney Drinking Water Catchments	No
5.3	Farmland of State & Regional Significance on the NSW Far North Coast	No
5.4	Commercial & Retail Development along the Pacific Highway North Coast	No
5.8	Second Sydney Airport: Badgerys Creek	No
5.9	North West Rail Link Corridor Strategy	No
5.10	Implementation of Regional Plans	Yes. As at January 2017 the Draft Central West & Orana Regional Plan has been publicly exhibited but not finalised/adopted. However, it is addressed in relation to Regional Strategies above. Complies.
6. Local Plan Making		
6.1	Approval & Referral Requirements	The Proposal does not introduce any new controls that require additional concurrences/referrals. Complies.
6.2	Reserving Land for Public Purposes	The Proposal seeks the approval of Council for an extension of Zone RE1 Public Recreation (or possibly E2 Env. Cons.) along Somerset Creek to align with existing zonings along this creek. It is intended this land is acquired/dedicated to Council. Can Comply.
6.3	Site Specific Provisions	The Proposal merely seeks to amend the Zoning and Lot Size affecting the land. It does not amend permissible land uses in the proposed zone and does not impose additional development standards or requirements to that zone. Whilst the Proposal refers to drawings that show details of the Subdivision Concept this is only used to demonstrate that the proposed control amendments can achieve the intended good planning outcomes. It is not intended that the Subdivision Concept form part of the Planning Proposal approval or OLEP2011 clause wording / controls. The detail can be addressed through further discussions with Council. Can Comply.
7. Metropolitan Planning – Not applicable to Orange LGA		

Applicable Section 117 Direction Detailed Responses

1. Employment and Resources - 1.3 Mining, Petroleum Production and Extractive Industries

There are no known mineral or extractive resources in or near the Subject Site that would be affected by the proposal. This is a proposal to increase residential density in an existing urban residential zone. Whilst there may be Exploration Licences in the area it is unlikely these will become future mining areas in close proximity to an urban centre. We suggest that consultation with NSW Resources & Energy Division do not need referral of this application. **Not Applicable or Complies.**

2. Environment and Heritage – 2.1 Environment Protection Zones

The Planning Proposal does include recognition of and facilitate the protection and conservation of environmentally sensitive area, particularly the key watercourses through the Site. The Environmental Protection Zone (Zone E2) along Ploughman's Creek remains unaltered and provides suitable protection. The Proposal suggests the introduction of a 20m wide Zone RE1 Public Recreation area (that could also be Zone E2 if required) along Somerset Creek. Whilst increasing the residential density on lands adjacent to environmental zones may have some impact this can be addressed through appropriate soil & erosion control and stormwater management at the Subdivision Application stage. **Complies.**

2. Environment and Heritage – 2.3 Heritage Conservation

The objective is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. There are no listed non-Aboriginal heritage items or conservation areas on the Site or in reasonable proximity to the Site that would be affected by the proposal. The increase in density is a minor change to an existing urban area with approved subdivision. There are no known Aboriginal sites or relics but standard conditions for protection are suitable. **Not Applicable or Complies.**

3. Housing, Infrastructure and Urban Development – 3.1 Residential Zones

The objectives of this direction are to encourage a variety of choice of housing types to provide for existing and future housing needs, make efficient use of infrastructure and services, to ensure new housing has appropriate access, and to minimise the impact of residential development on the environment and lands. This Direction applies to this Proposal as it is an alteration to an existing residential zone / zone boundary and is a significant residential development.

This Planning Proposal seeks to both increase the permissible residential density (where the land can support this density) and increase the range of permissible housing types through a change to Zone R1 General Residential. This in turn makes more efficient use of existing infrastructure and services and reduces the consumption of land for housing and associated urban development on the urban fringe. Design principles in the Subdivision Concept suggest that the outcomes could promote good design.

A planning proposal accepts that residential development is not permitted until the land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it) but acknowledges that it is already serviced land with an approved 61 lot subdivision. Obviously the Proposal does not reduce the permissible residential density of the land. **Complies.**

3. Housing, Infrastructure and Urban Development – 3.4 Integrating Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.

This direction applies to this Proposal as it is creating/ altering the residential zone. Whilst land to the north of the North Distributor Road is getting further from Orange's CBD it is important to note that it is transitioning to an extended urban centre for the town. It is also in close proximity to the North Orange retail centre. This area forms part of an urban release area for Orange.

The Subdivision Concept demonstrates that there is potential to connect into and enhance existing pedestrian and cycle networks to create improved connectivity. The illustrative road sections also provide for pedestrian footpaths and cycleways throughout the development. Primary road connections in the hierarchy are designed to support public transport (if required). This would meet the objectives of current transport guidelines and planning policies. **Complies.**

4. Hazard & Risk – 4.3 Flood Prone Land

The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. Whilst the land is not identified in the OLEP2011 Flood Planning Maps – it has significant watercourses that are likely to have localised flooding. Geolyse identified the 1:100 ARI flood levels for the eastern side of Somerset / Ploughman's Creeks and all housing lots proposed are outside of this area in the Subdivision Concept.

The Proposal seeks to rezone the land from Zone R2 to Zone R1 which are both residential zones but reduce the Lot Size for increased density. It does not affect any existing Environmental Protection Zone (E2 along Ploughman's Creek). Even with increased density the proposed development lots are outside the flood plain so the Subdivision Concept is broadly consistent with the *Floodplain Development Manual* but this can be reconfirmed / further addressed at the DA / Subdivision Stage. There is sufficient information to justify a Gateway Determination. **Complies.**

3.3.3 Section C – Environmental, Social and Economic Impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. It is unlikely that there will be an adverse environmental impact as a result of the proposal. The site has some sensitive watercourses, associated fish habitat, biodiversity along those watercourses, and groundwater sensitivities (see OLEP2011 Sheet CL2_007B). However, it is mostly disturbed vacant agricultural land with limited significant trees.

A 61 lot residential subdivision has previously been approved on the Site and as part of that approval setbacks to sensitive areas (particularly watercourses) was agreed and this Planning Proposal (and any future Subdivision Concept) can comply with or address those setbacks.

Whilst not listed, there are some significant eucalyptus trees on the Site and the Subdivision Concept attempts (where possible) to protect as many of those trees as possible (though Council acknowledges those trees do not form part of a significant ecological corridor or key examples of significant species).

We suggest that a full ecological study is not warranted for this Planning Proposal as it merely seeks to increase residential density on approved urban residential land, there are setbacks proposed to known sensitive areas, and the likelihood of threatened species, populations or ecological communities on the site is low.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The key effect of the Planning Proposal is to increase the permissible residential density on the land and reduce potential lot sizes. This will result in a greater percentage of site coverage, some reduced water infiltration, potential for some tree removal, and a transition from a rural landscape to an urban landscape.

The existing Zone R2 classification already recognises that the Site will have an urban outcome so the transition away from a rural landscape is unaffected by this Proposal and the impacts on groundwater are minimal as the site will be fully serviced by reticulated water and sewer.

However, the increased density may have some minor visual impacts as greater site coverage by buildings and reduced potential for substantial open spaces and vegetation. As a result the Subdivision Concept has put forward a Landscape Map suggesting opportunities for enhancement of significant vegetation along key ecological corridors and watercourses, pedestrian links, and around the perimeter of the Site that would mitigate any additional visual impact through this Proposal.

This includes key 'gateway' planting (some suggested by Council) at key intersections and entrances for visual interest, colour, and screening. Design Principles also suggest fencing and perimeter earth mounding and landscape designs that would avoid poor urban outcomes.

The Subdivision Concept also demonstrates that removal of the limited significant trees on the Site can be minimised through appropriate subdivision and parkland design.

The Subdivision Concept also has a similar setback to the main perimeter roads (Mitchell Highway / Northern Distributor Road) to have the same or reduced road noise impact on residential amenity (see SEPP (Infrastructure) addressed in Planning Proposal for more details). Again, earth mounding opportunities and fencing/screening will further mitigate these impacts).

As part of any Subdivision Application (DA) and possibly in any detailed master planning there is opportunity to demonstrate suitable stormwater management to maintain flows at the same level as the approved 61 lot subdivision. Council's Report approving the 61 lot subdivision noted that the previous approval could satisfy the requirements of Clause 7.3 OLEP2011 and on this basis, even with the increased density, the same principles apply to this proposal (as follows).

7.3 - Stormwater Management

This clause applies to all industrial, commercial and residential zones and requires that Council be satisfied that the proposal:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water*
- (b) includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water; and*
- (c) avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

With regard to (a) and (b), the proposed development is for subdivision of an existing two lot holding into moderate and large-sized residential lots. The future development of the 61 lots will likely consist of standard residential housing, with some multi dwelling houses also fed into the mix. Council has controls with respect to site coverage that will ensure that extensive parts of each allotment will have permeable spaces suitable for onsite detention. The future surface runoff for each lot could be directed to flow into Council's stormwater reticulation system as an alternative method to installing water tanks for onsite detention. It is not anticipated that the proposed development will lead to future development unsuited to the capabilities of either onsite detention or the stormwater reticulation system.

With regard to (c), there will be some impacts arising with stormwater runoff for water quantity and water quality. Quantities can be expected to rise as hard surfaces like roads are installed. Flow rates into the creek system will need to be controlled to within certain specified limits to avoid events such as flash flooding during peak events. With regard to water quality, collection and increase in particulate content and nutrients is likely for a residential subdivision, although contamination from toxic or dangerous chemicals is considered minimal. Nutrient and particulate control is recommended under Water Sensitive Urban Design principals (WSUD) and can be worked into the detailed stormwater plans that are required in the conditions of this consent. It is noted that this particular runoff area is not part of the Council stormwater harvesting catchment, and therefore receives no benefit from the water quality improvement systems included in that scheme. All such water quality controls will need to be incorporated into the onsite systems.

Figure 16: Excerpt from Council December 2015 Report on DA217/2014(1) addressing Stormwater Management.

9. Has the planning proposal adequately addressed any social and economic effects?

There are no impacts on non-Aboriginal items of heritage significance. There are no known Aboriginal archaeological sites on or near the Subject Site and the standard conditions (to any future Subdivision DA) can be used to protect any relics found on the Site.

The proposal will result in higher residential densities than that currently permitted on the Site. However, by providing a diversity of lot sizes it is expected to create a more diverse community with more affordable housing, different dwelling types/sizes to meet different household needs, and reduce consumption of rural lands for urban sprawl. Visual impacts of higher densities have been mitigated by a Landscape Concept strategy, particularly around the perimeter of the site and key ecological corridors.

The potential to increase this from 61 dwellings to 90-120 dwellings will create more housing opportunities for Orange's growing population and construction jobs that support the local economy.

There will be some minor increases in demand for local services and facilities such as schools and shops but it is expected these can be met with growing retail and potential new school areas in North Orange or as part of Orange's expected growth strategies. Additional demand on infrastructure is addressed below.

We suggest that the efficient use of this land in what is a key growth area for Orange overall has a net positive social and economic benefit that outweighs any impacts /additional costs.

3.3.4 Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the planning proposal?

(Typically this applies to Proposals for residential subdivisions in excess of 150 lots, substantial urban renewal, infill development, and development that will result in additional demand on infrastructure).

The availability and proximity of access and existing utility services in the general vicinity of the subject site was previously considered suitable for the approved 61 lot subdivision of the Subject Site (subject to upgrades in that approval). This Planning Proposal seeks to increase the potential residential density on the Site by between 50-100% that will require some additional capacity in surrounding services but the total lot yield is unlikely to exceed 150 lots (see guideline above).

The access to the Subject Site from the Northern Distributor Road has been approved previously. As part of any future Subdivision Application (DA) a Traffic Report may be lodged that demonstrates the capacity of the proposed intersection for the additional traffic. However, in the medium to longer term additional access points are expected to be provided that may ease reliance on that single access point.

The Site (and adjoining land) has been nominated as an Urban Release Area and there are water, sewer, electricity and telecommunication services immediately adjacent to and running through the Site that are capable of augmentation (if required). The Applicant has had several meetings with Council's Engineers indicating the proposed development outcomes and no capacity issues have been flagged at this time.

Once a positive Gateway Determination is received the Applicant is likely to prepare more detailed Servicing Plans for the Site and seek agreement with Council's engineers (water / sewer) and any other relevant utility authorities (electricity / gas / telecommunications) on preferred outcomes. Council has intimated that further discussions on servicing and contributions will occur prior to the LEP amendment commencing so the relevant control plans can be updated to support a detailed Subdivision Application.

11. What are the views of state and commonwealth public authorities consulted in accordance with the gateway determination?

At the time of preparing this Planning Proposal the only state authorities that have been notified are the Department of Planning & Environment ('DPE')(brief conversation with Jenna McNabb of Dubbo Office on 12/1/17).

However, it is important to note that Office of Water provided General Terms of Approval to the previous approved 61 lot subdivision and those terms are not expected to change substantially as this Planning Proposal is also for residential zoning and similar setbacks from key watercourses.

Once Orange City Council has indicated that the Planning Proposal has addressed the key matters a copy of this Planning Proposal can be forwarded to DPE for a preliminary review prior to formal notification after a Gateway Determination. After Gateway Determination notification is recommended to Roads & Maritime Services ('RMS'), NSW Office of Water ('NoW'), Office of Environment & Heritage ('OEH') and Orange Local Aboriginal Land Council ('OLALC').

There are no matters of commonwealth / federal significance on this Site that would warrant sending the Proposal to these authorities at this time.

3.4 Part 4: Mapping

The proposed amendments are reflected on the Proposed Lot Size / Zoning Map in the attached Subdivision Concept Plan/Report. The maps in *Orange Local Environmental Plan 2011* that are likely to require modification (after public exhibition) include:

- *Orange Local Environmental Plan 2011* Land Zoning Map - Sheet LZN_007B
- *Orange Local Environmental Plan 2011* Lot Size Map - Sheet LSZ_007B
- *Orange Local Environmental Plan 2011* Urban Release Area Map - Sheet URA_007B

Updated copies of these OLEP2011 maps (in Standard Instrument format) will be prepared after the public exhibition of the Planning Proposal unless otherwise required by the Gateway Determination.

3.5 Part 5: Community Consultation

In accordance with Section 57(2) of the *Environmental Planning and Assessment Act 1979*, this planning proposal must be approved prior to community consultation being undertaken.

The planning proposal would be notified / publicly exhibited for a period of 28 days, as per the requirements detailed in the EP&A Act and EP&A Regulations (as amended by the Gateway Determination). The notification would be advertised in the local newspaper (Central Western Daily) at the commencement of the exhibition period and letters sent to key government authorities. Notification may also be sent to all adjoining land owners and placed on Council's website. The written notice would provide:

- a description of the objectives or intended outcomes of the planning proposal;
- the land affected by the planning proposal;
- advise when and where the planning proposal can be inspected;
- give the name and address of the Council for the receipt of submissions; and
- indicate the last date for public submissions.

During the exhibition period, the following material will be made available for inspection:

- the planning proposal, in the form approved for community consultation by the Director General of Planning;
- any reports relied upon by the planning proposal (including the Subdivision Concept Plan/Report and any Report to Council).

3.6 Part 6: Project Timeline

The following provides an anticipated / estimated project timeline for completion (subject to Gateway / Council requirements and extent of submissions/amendments):

Project Timeline Task	Anticipated timeframe
Resolution of Council on Planning Proposal	April 2017
Forward Planning Proposal to DPE	Late April / Early May 2017
Gateway Determination	Early June 2017
Additional technical information	Unlikely to be required but deadline is July 2017
Government agency consultation (pre exhibition as required by Gateway Determination)	July 2017
Commencement and completion dates for public exhibition	Commence July-August 2017 Completed August-Sept 2017
Consideration of submissions	September-October 2017
Council adoption of final Planning Proposal	October-November 2017
Commencement of Amendments	Late 2017 / Early 2018 (less than 12 months from Gateway)