

## Planning Services

IRF19/357

### Gateway determination report

|                                 |  |
|---------------------------------|--|
| <b>LGA</b>                      | Orange   |
| <b>PPA</b>                      | Orange City Council  |
| <b>NAME</b>                     | Administrative Amendment (No. 24) of the Orange Local Environmental Plan 2011 (1 home, 0 jobs)               |
| <b>NUMBER</b>                   | PP_2018_ORANG_004_00   |
| <b>LEP TO BE AMENDED</b>        | Orange Local Environmental Plan 2011   |
| <b>ADDRESS</b>                  | Whole of Orange LGA, including various specific areas  |
| <b>DESCRIPTION</b>              | Whole of Orange LGA, including various specific areas  |
| <b>RECEIVED</b>                 | 11 December 2018 – adequate 29 May 2019  |
| <b>FILE NO.</b>                 | IRF19/357  |
| <b>POLITICAL DONATIONS</b>      | There are no known donations or gifts to disclose and a political donation disclosure is not required.       |
| <b>LOBBYIST CODE OF CONDUCT</b> | There have been no known meetings or communications with registered lobbyists with respect to this proposal. |

## INTRODUCTION

### Description of planning proposal

Planning proposal to amend multiple planning controls of the Orange Local Environmental Plan (LEP) 2011 in response to cumulative proponent and Orange City Council requests to update the LEP. Amendments include:

1. Mapping and description updates to multiple heritage items identified in the heritage maps and Schedule 5 Environmental Heritage.
2. Updating all LEP maps to align layers to updated cadastre boundaries.
3. Removal of flood mapping in the LEP and reliance on flood mapping in a Floodplain Risk Management Plan which is underpinned by the LEP.
4. Various mapping updates for specific locations including updating zoning, minimum lot sizes and the Orange Airport Obstacle Limitation Surface area.
5. Updating the wording of various development standards to avoid ambiguity.
6. Adoption of various new development standards to enable more flexibility to development.
7. Including additional land uses as permitted development in certain zones.
8. Providing a dwelling entitlement to 120 Calton Road, Orange through updating Schedule 1, Additional Permitted Uses (APU).

### Site description and existing planning controls

All of the proposed changes to the Orange LEP 2011 affect the whole LGA, except for items 1, 4 and 8. For ease of reading, details of each proposal item will be discussed under a separate sub-section.

#### Item 1: Schedule 5 Environmental Heritage amendments

A breakdown of the site-specific details and proposed changes to item 1, Schedule 5 Environmental Heritage are listed in **Table 1**.

**Table 1:** Description of heritage items affected by the proposal

| Address                            | Lot and DP                        | Description   | Current Controls                              | Proposed Changes   |
|------------------------------------|-----------------------------------|---|---|--|
| 26 Caroline Street, Orange         | Lot 13<br>DP16510                 | Residential dwelling between Orange CBD and Glenroi               | R1 General Residential and heritage item I268 | Include site description in table of Schedule 5  |
| 56 Farrell Road, Orange            | Lot 110<br>DP1194964              | Cottage in northern Orange  | R1 General Residential and heritage item I308 | Emmaville Cottage has been relocated. Site description and mapping to be updated to Lot 31 DP1215943, 34 Telopea Way |
| 106 & 106A Franklin Road, Orange   | Lots 3 & 4<br>Section 5<br>DP6662 | Residential dwelling between Orange CBD and Glenroi               | R1 General Residential and heritage item I75  | Amend boundary of heritage item to include 106A Franklin Road  |
| 154 Peisley Street, Orange         | Lot 200<br>DP1231431              | Geolyse building adjacent to Orange Railway Station heritage item | B3 Commercial Core and heritage item I22      | Amend boundary of heritage item to remove Geolyse building from mapping  |
| 65 Dalton Street, Orange           | Lot 1 & 2<br>DP959506             | Residential dwelling in central Orange                            | R1 General Residential and heritage item I89  | Include both lots in heritage map sheet HER_008C   |
| Summer Street road reserve, Orange | Nil                               | Brass footpath inlays in pavement in Orange CBD                   | SP2 Infrastructure and heritage item I198     | Relocate heritage mapping from Byng St to Summer St  |

| <b>Address</b>                           | <b>Lot and DP</b>   | <b>Description</b>                          | <b>Current Controls</b>   | <b>Proposed Changes</b>  |
|--|---|---|---|--|
| 26 Kinghorn Lane,<br>Huntley             | Lot 2<br>DP828893   | Carramar dwelling near the Orange airport   | E3 Environmental Management   | Add this lot to the heritage table (I282). Updating mapping to relocate heritage listing from 28 to 26 Kinghorn Lane |
| 170, 172 & 174 Moulder Street,<br>Orange | Lot A, B & C<br>DP152958  | Terrace houses near Orange CBD              | R1 General Residential and heritage item I110   | Include site description in table of Schedule 5  |
| 166 Edward Street,<br>Orange             | Lot 200<br>DP1098143  | Carpark of a car dealership near Orange CBD | B6 Enterprise Corridor and Glenroi Heritage Conservation Area (C3)                    | Amend boundary of C3 to not include the lot carpark  |
| Anson Street,<br>Orange,<br>2800         | Lot 502<br>DP1249083  | Former ambulance station near Orange CBD    | B4 Mixed use and heritage item I254 which is incorrectly listed                       | Amend the heritage schedule to list the correct address and heritage item to I366                                    |
| 3 Spring Street,<br>Spring Hill          | Lot 3<br>Section 2<br>DP758921                                      | Heritage shed in Spring Hill                | RU5 Village in the Spring Hill Heritage Conservation Area (C5) and heritage item I304 | Amend the heritage schedule to list lot 3 not lot 2  |
| 282-284 Summer Street,<br>Orange         | Lot 24<br>DP587326  | Heritage shop in Orange CBD                 | B3 Commercial Core and heritage item I185   | Amend the heritage schedule to list the address at 282 Summer Street   |
| 286-294 Summer Street,<br>Orange         | Lot 22<br>DP589346,<br>Lot 20<br>DP590691<br>and Lot 18<br>DP590461 | Gallagher Building in Orange CBD            | B3 Commercial Core and heritage item I186   | Amend the heritage schedule to list the address at 286-294 Summer Street   |

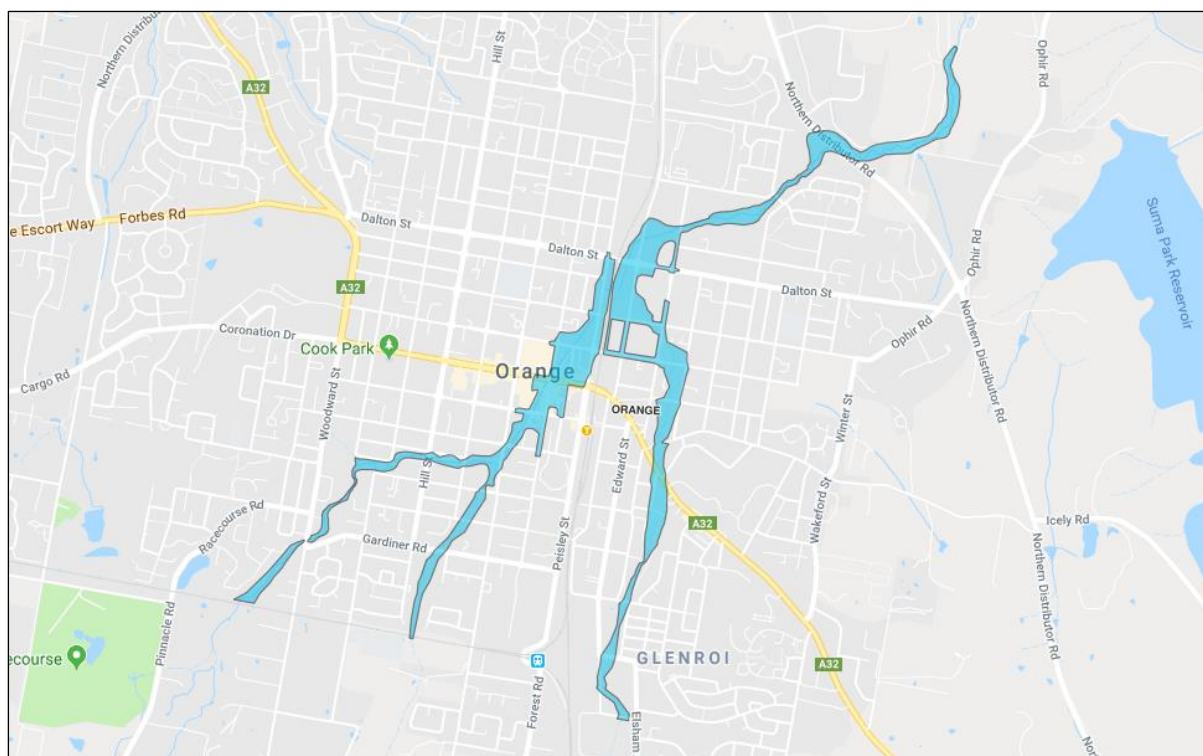
| Address  | Lot and DP   | Description                          | Current Controls                             | Proposed Changes   |
|--|--|--------------------------------------|--|--|
| 107 Prince Street                                    | Lot 100<br>DP1195304                                 | Anson cottages, north of Orange      | R1 General Residential                       | Correctly map heritage item  |
| 57 Racecourse Road,<br>2 – 28 Cedar Street<br>Orange | Lot 100-101<br>DP1219298<br><br>Lot 2-16<br>DP271090 | CSR Readymix Site (Bluestone Quarry) | R1 General Residential and heritage item I58 | Amend heritage schedule and map so only Lot 1 DP271090 is listed as the heritage item. |

### Item 2: Map cadastre update

Since the Orange LEP 2011 was notified the State-wide cadastre has since been updated. As a result, there are instances where the new cadastral boundaries on LEP maps do not align with property boundaries. Council proposes to update all map layers to ensure they match the latest cadastre. This will result in minor boundary adjustments in some instances but does not result in any changes to planning controls.

### Item 3: Clause 7.2 Flood Planning and mapping amendments

Item 4 relates to all land mapped as being flood prone in the Orange LGA. This is restricted to the city of Orange as shown in **Figure 1**.



**Figure 1:** Flood prone land of Orange LGA.

Item 4: Various site-specific mapping updates

An explanation of item 4, the various mapping updates is provided in **Table 2**.

**Table 2:** Description of properties affected by the proposal

| Address                    | Lot and DP   | Description   | Current Controls                                 | Proposed Changes   |
|----------------------------|--|---|--|--|
| 363 Phillip Street, Orange | Lot 808<br>DP1240445   | Orange Sewage Treatment Plant and vacant land at Narrambla, northern Orange | SP2 Infrastructure                               | Amend the SP2 boundary to match the lot boundary and remove the SP2/IN1 split zoning   |
| N/A                        | Lot 35<br>DP809961<br><br>Lot 71<br>DP263385<br><br>Lot 22<br>DP807491<br><br>Lot 86<br>DP263614<br><br>Lot 281<br>DP1076573 | Teamsters Walkway, northern Orange  | RE1 Public Recreation                            | Amend the RE1 zone boundary to match the cadastre boundary. This will prevent some adjacent lots appearing to have a split zoning of RE1 and R1. |
| Forest Road, Orange        | Lots 1 & 2<br>DP1117200  | Rural Fire Service buildings, southern Orange                               | SP2 Infrastructure                               | This lot is labelled SP2, without a descriptor. Add 'Emergency Services Facility' to the name  |
| 1 Barrett Street, Orange   | Lot 44<br>DP608334   | Private beverage company  | IN1 General Industrial and 800m <sup>2</sup> MLS | Rezone southern unused portion of the lot to R1 Residential to facilitate further subdivision and remove MLS.                                    |
| 1610 Forest Road, Orange   | Lot 1<br>DP1142713   | Sir Jack Brabham Park, southern Orange                                      | RE2 Private Recreation                           | Rezone to RE1 Public Recreation as land is publicly available.   |
| 2-18 Eyles Street, Orange  | Lots 4-9 DP<br>1136218   | Orange function   | R1 General Residential                           | Rezone to B6 Enterprise Corridor to enable further   |

| Address   | Lot and DP   | Description  | Current Controls   | Proposed Changes  |
|---|--|--|--|---|
|   | Lot 7<br>DP995761<br><br>Lot 1<br>DP995826<br><br>Lot 2<br>DP507625                                      | centre, central Orange   |  | land uses on the land.  |
| Various   | Lots 1-18<br>DP1246117<br><br>Lot 1<br>DP778563  | Shiralee subdivision, east Orange  | R1 General Residential, R2 Low Density Residential and RE1 Public Recreation | Minor boundary adjustments so zone boundaries match property boundaries.                                |
| 150 - 152 McLachlan Street,<br><br>387-387c Summer Street,<br><br>146-148 McLachlan Street<br><br>366 Summer Street | Lot 100<br>DP1130951,<br><br>Lot 112<br>DP565662,<br><br>Lot 1<br>DP779761,<br><br>Lot A & B<br>DP161732 | Local businesses and one dwelling associated with the Post Office, east Orange | R1 General Residential   | Rezone to B1 Neighbourhood Centre   |
| 4 Perc Griffith Way Orange  | Lot 10<br>DP732585   | Future caravan park, east Orange   | RE2 Private Recreation   | Remove the MLS of 100ha   |
| Mitchell Highway, Shadford  | Lot 102<br>DP1079487   | Farm, Shadford (east of Orange)  | Split zone – RU1 Primary Production & E3 Environmental Management            | Amendment of zone boundary and Drinking Water Catchment boundary to align with updated groundwater data |
| Aerodrome Road, Huntley   | Various  | Orange Airport, Huntley (south of Orange)                                      | SP2 Infrastructure and E3 Environmental Management                           | Amendment to boundary of Obstacle Limitation Surface Map  |

#### Item 5: Updating various development standards

The planning controls for development standards proposed to be updated are described below:

- Clause 4.1C - Exceptions to minimum lot sizes for certain residential development: This clause only applies to parts of Ploughmans Valley which is zoned R2 Low Density Residential. The clause permits certain dwellings to be developed below the MLS, if certain subdivision conditions are met.
- Clause 4.2 - Rural subdivision: This clause allows subdivision of certain rural zones to any size where there is no potential for a new dwelling. This clause is typically used by land holders to adjust the boundaries of their land when land is traded or subdivided.

#### Item 6: Adoption of new development standards

There are no planning controls as the proposed clauses are not currently adopted in the Orange LEP 2011:

- Clause TBA – Subdivision of split-zoned or split-sized land.
- Clause TBA – Cafes in the R1 General Residential Zone.
- Clause TBA – Clustered dual occupancies in E3 and RU1 zones.

#### Item 7: Land uses table updates

The planning proposal seeks to permit the following land uses in the specified land use zones, which are currently prohibited development:

- Bee Keeping in the R1, R2, R5 and RU5 zones.
- Extensive agriculture in the R5 zone.
- Secondary Dwellings in the R2 zone.

#### Item 8: Providing a dwelling entitlement to 120 Calton Road

The land at 120 Calton Road is zoned E3 Environmental Management (**Figure 2**) with a MLS of 100ha. The subject site contains three lots, with a total land holding of 19.5ha (**Figure 3**). A dwelling is proposed to be located on the southernmost lot, Lot 41 DP979808 which is approximately 9.6ha. The subject site is approximately 3km south-east of Orange CBD, east of the edge of the Orange industrial area.

The surrounding E3 zoned holdings are also undersized agricultural use lots of a similar size to 120 Calton Road and contain a dwelling. The subject site and immediate surrounds have access to reticulated water and sewage. The land holder also owns additional adjacent land at Alton Hills, totalling 82ha, which is actively used for orchards and grazing.





**Figure 2:** Land zoning of the 120 Calton Road subject site.



**Figure 3:** Aerial imagery of the 120 Calton Road subject site.



## Summary of recommendation

Proceed with condition – The planning proposal is supported for the reasons summarised below:

- Rectifying the administrative issues of the LEP, mainly mapping (Items 1 and 2) and Schedule 5 errors (Item 1), will avoid confusion for the general public and Council.
- Removing flood prone land mapping from the LEP (Item 3) will ensure flood maps are updated frequently and quickly, as it will not require approval to amend the LEP.
- The site-specific amendments in Item 4 will ensure the zoning is correct to permit future development of this land appropriate to the zone.
- Items 5, 6 and 7 will provide additional development control clarity and land uses for certain zones which will benefit local development.
- Item 8 will rectify an administrative error and is consistent with the local strategic planning approach to rural-residential development.

Conditions required are:

- Consultation with NSW State Emergency Service (SES) and Office of Environment and Heritage (OEH) to fulfil the section 9.1 Ministerial Direction 4.3 Flood Prone Land.
- Completion of a Stage 1 Preliminary Investigation as per SEPP 55 for 1 Barrett Street.
- Confirmation from the Department to proceed to community consultation once the required updates to the planning proposal are made.

## PROPOSAL

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### Objectives or intended outcomes and explanation of provisions

#### Item 1: Schedule 5 Environmental Heritage amendments

The objective of the proposal is to update the mapping and item descriptions of multiple heritage items. These updates are required as the original maps or descriptions were incorrect, or the heritage item lot and DP has changed. To make these changes, Part 1 of Schedule 5 and multiple heritage map sheets will be updated.

#### Item 2: Map cadastre update

The planning proposal will have to amend the cadastre layer of every map sheet used in the Orange LEP 2011. This will not result in any changes to planning controls of properties. The proposal will facilitate more accurate mapping for any future LEP amendments.

#### Item 3: Clause 7.2 Flood Planning and mapping amendments

Currently mapping and local provisions relating to flooding in the Orange LEP 2011 match the model local clause for clause 7.3, flood planning. The proposal intends to

use the option in the model clause to remove flood mapping from the LEP into a local Floodplain Risk Management Plan. To ensure these new maps are still utilised, minor rewording of clause 7.3 is required to direct users to the Plan.

As part of the change, an additional clause would be added to provide additional clauses around development for public areas, for example camping grounds, community and entertainment facilities, emergency and health services facilities, child care centres and places of public worship. This additional clause is intended to protect evacuation routes of these facilities and would only apply to land between the flood planning level and probable maximum flood level.

#### Item 4: Various site-specific mapping updates

This proposal relates to mapping amendments to certain lots to facilitate future development. In most cases the mapping changes will involve a rezoning to better reflect the current use of the land and permit future development in line with the new zone (see **Table 2**). Other mapping changes are minor amendments to correct labelling or boundary errors/updates. There is one lot which will remove the MLS provision to facilitate future subdivision for a caravan park. The justification for each zone amendment provided in the planning proposal is considered adequate to proceed with conditions.

#### Item 5: Updating various development standards

The planning proposal intends to alter the wording of the following development standards:

- Clause 4.1C - Exceptions to minimum lot sizes for certain residential development: The proposal will remove multi dwelling housing from being permitted at Ploughmans Valley.
- Clause 4.2 - Rural subdivision: The proposal will add E3 Environmental Management as a zone to which this clause applies.

#### Item 6: Adoption new development standards

The planning proposal intends to add the following development standards:

- Clause 4.2 – Subdivision of split-zoned or split-sized land: The proposal will adopt this new clause to enable subdivision of split-zoned or split-sized land if certain conditions of the clause are met.
- Clause TBA – Cafes in the R1 General Residential Zone: This local clause will enable cafes to be operated in the R1 zone, subject to conditions of the clause including floor space ratio limits. The wording of this clause will be determined by Legal Service Branch and Parliamentary Counsel.
- Clause TBA – Clustered dual occupancies in E3 and RU1 zones: This local clause will be added to Part 7 (additional local provisions) of the LEP to further refine the types of ‘Dual Occupancies’ which are permitted in the RU1 and E3 zones. These restrictions will ensure the additional dwelling is located in close proximity to the primary dwelling and cannot be located on a

separate lot if subdivided. It will also remove 'Dual Occupancies (attached)' and insert 'Dual Occupancies' as permitted with consent in the E3 zone. An additional

#### Item 7: Land uses table updates

The planning proposal intends to allow bee keeping to a certain size as exempt development. This proposal would allow people seeking more hives to do so in the R1, R2, R5 and RU5 zones subject to development consent.

The planning proposal intends to allow extensive agriculture as development permitted with consent in R5 zones. The intent of this clause is to permit a larger range of agricultural activities on rural-residential land, including non-commercial levels of grazing. Of note, permitting extensive agriculture will also permit the child-term bee keeping.

Secondary dwellings are proposed to be added as permitted with consent in the R2 zone. Currently secondary dwellings can only be considered in this zone under the *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Using this method, secondary dwellings have a limited Floor Space Ratio (FSR) of 60m<sup>2</sup>. Permitting secondary dwellings as permitted with consent will allow secondary dwellings to have a FSR of 60m<sup>2</sup> or 50% of the principle dwelling.

#### Item 8: Providing a dwelling entitlement to 120 Calton Road

Under clause 4.2A of the Orange LEP, 120 Calton Road could retain its existing holding right if development consent application for a dwelling is made before 31 December 2012. This occurred, however, due to Council administrative issues the application was not processed in time to meet the deadline. The proposal is consistent with the surrounding settlement pattern of dwelling houses and development in the area.

Given the administrative errors for this proposed dwelling a planning proposal has been submitted. To rectify this administrative error a 2-year sunset clause APU is being sought to reinstate the ability to enact a dwelling on the land with consent. To permit a dwelling entitlement, Schedule 1 and the relevant APU map of the Orange LEP 2011 will require amending.

### **Mapping**

The proposal will require amendments to all LEP maps to update the cadastre, however, this will not change any planning controls. Specific map updates which will result in changes to planning controls are listed in **Table 3**.

**Table 3:** List of mapping changes per proposal item

| <b>Proposal Item</b>                             | <b>Type of Change</b>   | <b>Map Sheet</b>  |
|--|---|---|
| Item 1: Heritage amendments                      | Amend boundary or lots which contain heritage items                       | HER 007D<br>HER 008A<br>HER 008C  |
| Item 3: Flood planning                           | Remove all flood planning maps  | FLD 007D<br>FLD 008A<br>FLD 008B<br>FLD 008C<br>FLD 008D<br>FLD 012                       |
| Item 4: Various site-specific mapping updates    | Site specific rezoning  | LZN 007D<br>LZN 008A<br>LZN 008B<br>LZN 008C<br>LZN 008D<br>LZN 009<br>LZN 012<br>LZN 018 |
|  | Remove or update minimum lot size   | LSZ 008A<br>LSZ 008B<br>LSZ 008D<br>LSZ 013   |
|  | Update boundary of obstacle limitation surface map for the Orange airport | CL1 009<br>CL1 010<br>CL1 015   |
|  | Create missing drinking water catchment map                               | CL1 012   |
|  | Update groundwater vulnerability boundary                                 | CL2 018   |
| Item 9: Dwelling entitlement for 120 Calton Road | Create map showing APU on lot   | APU 008D  |



## NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not the result of any strategic studies, it is an accumulation of internal and external housekeeping requests to Council to amend the Orange LEP. Council has decided to compile these requests over years and rectify them in a single administrative planning proposal. Not proceeding with the planning proposal would limit local development at the specific sites mentioned and prevent some of the additional development types listed in Item 5.

For most of the Items, a planning proposal is the best means to achieve the intended outcomes, for example mapping errors. As agreed to by Council, the proposed local exempt and complying provisions have been omitted from this administrative planning proposal for more detailed consideration and assessment in the future.

## STRATEGIC ASSESSMENT

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### State

There is no state strategic planning framework relevant to the planning proposal.

### Regional

The Central West Orana Regional Plan (CWORP) is the relevant strategic planning framework for the proposal. Council propose the planning proposal is consistent with the CWORP for the following items:

- **Action 10.6** – Accommodate future commercial and retail activity in existing commercial centres, unless there is a demonstrated need or social and economic benefits to locating this activity elsewhere: Rezoning relating to business zones in Item 4 are consistent with this action.
- **Action 12.4** - amend planning controls to deliver greater certainty of land use: The minor rezonings (Item 4), additional permitted land uses (Item 7) and amendments to development controls (Item 5 and 6) are consistent with this direction.
- **Action 15.5** - Implement the requirements of the NSW Floodplain Development Manual by updating flood studies and floodplain risk management plans: Item 3 will meet this requirement by allowing Council to more frequently update their local flood studies, without the need for an LEP amendment.
- **Action 17.2** - Prepare, review and update heritage studies in consultation with the wider community to recognise and conserve heritage assets and items, and include appropriate local planning controls: Item 1 will amend Schedule 5 and associated mapping as per this action.

### Local

Most Items proposed in the planning proposal are related to development controls which is not relevant to a local strategy. The exception is Item 1, heritage amendments, which is consistent with the Orange Community Strategic Plan, Objective 10.2 – Preserve our diverse social and cultural history.

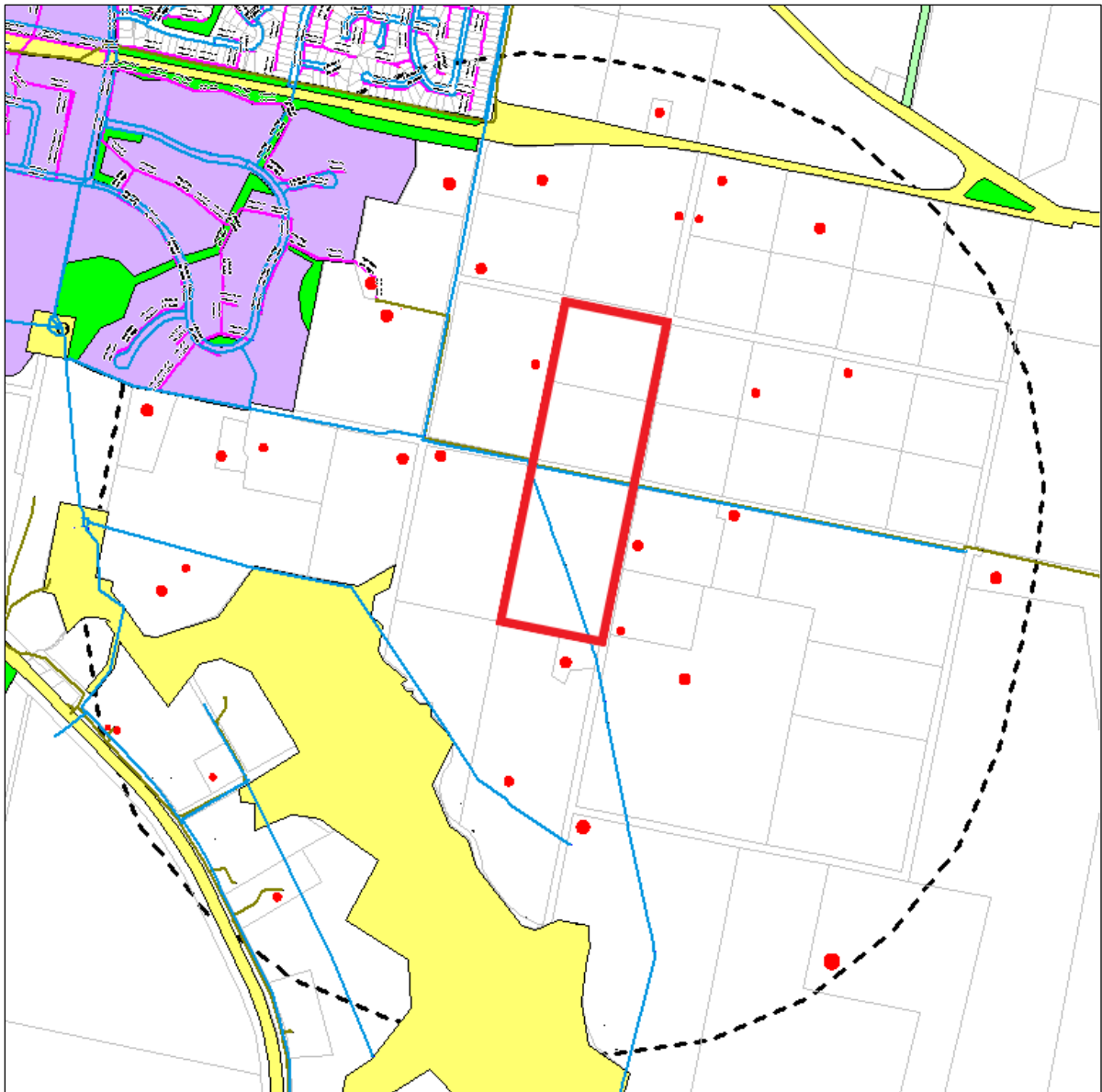
The Blayney, Cabonne, Orange Rural and Industrial Land Use Strategy (BCO) (July, 2008) identified key use principles and future rezonings to accommodate growth across the sub-region. The rezonings proposed for this administrative planning proposal are mainly boundary adjustments or small in scale and relate mainly to

rezoning to better align to current use. Therefore, these rezonings are not specifically discussed in the BCO. The proposed rezonings are minor in nature and are not expected to impact on supply of any zone. Therefore, the planning proposal is not inconsistent with the BCO.

There is no local or state planning justification given for the inclusion of 120 Calton Road in the planning proposal. Permitting a dwelling house at 120 Calton Road is not mentioned by the Orange Sustainable Settlement Strategy or BCO as these strategies reviewed suitable areas for larger scale new subdivisions. Local strategic guidelines for location of future dwellings, especially rural-residential dwellings include locating it in areas to avoid urban sprawl, environmental impacts and land use conflict, and co-located with appropriate services.

The proposed dwelling at 120 Calton Road, matches the local development pattern (see **Figure 4**), indicating previous approvals for dwelling entitlements have virtually abandoned the MLS development standard and upholding this standard is unreasonable. Adoption of the standard LEP and Council's intention to allow a dwelling at 120 Calton Road shows this area has already substantially deviated from the intent of the 100ha MLS. This area should be reconsidered in a strategic context.

The land cannot be further subdivided or obtain an additional dwelling under current development controls. The lot can be fully serviced to avoid impact to the drinking water catchment. The land is also actively grazed, therefore, construction of a dwelling is not expected to result in a significant environmental impact and can be assessed at development application stage. This maintains the zone objective to provide for a limited range of development that does not have an adverse effect on ecological and aesthetic values and avoids impact to the Orange drinking water supply. Overall, and given the circumstances reinstating a dwelling entitlement at 120 Calton Road to rectify an administrative error via a two-year sunset clause APU is supported.



**Figure 4:** Settlement pattern within 1km of 120 Calton Road, note red dots indicate existing dwellings

## Section 9.1 Ministerial Directions

### Direction 1.1 Business and Industrial Zones

This Direction applies as the planning proposal will rezone three locations to business zones and remove approximately 300m<sup>2</sup> of industrial zone land at 1 Barrett Street. Rezoning for the business zones is consistent with this direction, however, loss of industrial land is not. Loss of 300m<sup>2</sup> of industrial land at 1 Barrett Street is not consistent with a local strategy, however, this inconsistency is justified as it is of minor significance.

### Direction 1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies as the planning proposal will rezone IN1 General Industrial land to R2 Low Density Residential. IN1 is an open zone which would permit underground mining, therefore, rezoning to R2 will prohibit the mining potential of

this land. Inconsistencies with this direction are justified if the inconsistency is of minor significance. Loss of approximately 300m<sup>2</sup> of potential resource land is of minor significance and the inconsistency is justified.

#### Direction 2.3 Heritage Conservation

This Direction applies as the planning proposal will amend Schedule 5 – Environmental Heritage of the Orange LEP. The amendments will resolve mapping and address errors to better protect the heritage items and conservation areas of Orange, which is consistent with this Direction.

#### Direction 3.1 Residential Zones

This Direction applies as the planning proposal will rezone approximately 300m<sup>2</sup> of industrial land to R2 Low Density Residential land. The rezoning will permit access and construction of a dwelling and is not inconsistent with this direction.

#### Direction 3.4 Integrating Land Use and Transport

This Direction applies to the planning proposal as it will alter land zoned for residential, business and industrial. Changes to these zones are minor, being boundary adjustments or realignment of zones to match current land uses. The planning proposal states it is consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for planning and development* (DUAP, 2001) and *The Right Place for Business and Services – Planning Policy* (DUAP, 2001). The planning proposal is not considered inconsistent with these DUAP policies and is consistent with Direction 3.4.

#### Direction 4.3 Flood Prone Land

This Direction applies as the planning proposal will alter provisions of the Orange LEP which apply to flood prone land. The changes will remove the flood prone land mapping from the LEP and refer to the Floodplain Risk Management Study, which was developed in accordance with the *Floodplain Development Manual 2005*. Consultation with NSW SES and OEH is required to determine if the proposed changes are consistent with this direction.

#### Direction 5.10 Implementation of Regional Plans

This Direction applies to all planning proposals. The planning proposal is consistent with the CWORP as outlined in the strategic assessment section. Therefore, the planning proposal is consistent with this Direction.

#### Direction 6.1 Approval and Referral Requirements

This Direction applies to all planning proposals. The planning proposal is consistent with this Direction as it does not impose any additional concurrence, consultation or referral conditions on development.

#### Direction 6.3 Site Specific Provisions

This Direction applies to all planning proposals. The proposal is inconsistent with this Direction as it will require a site specific APU to permit a dwelling at 120 Calton Road. This inconsistency is considered justified as an APU for one lot is of minor significance and the best mechanism to achieve this outcome.



## **State environmental planning policies (SEPPs)**

State Environmental Planning Policy No 55—Remediation of Land (SEPP 55)

SEPP 55 applies to this planning proposal as it will rezone IN1 land (1 Barrett Street) which permits potentially contaminating land uses. Detailed history of the previous land use has not been provided, however, Council advised it does not expect for the land to be potentially contaminated. Council acknowledges further land contamination work may occur at the development application stage.

Considering the information provided by Council, it is recommended a Stage 1 Preliminary Investigation for 1 Barrett Street is completed before community consultation. This will formally identify any previous land uses listed in Table 1 of the Managing Land Contamination Planning Guideline which may have occurred on this land.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

Clarification of development controls and minor amendments to LEP mapping is unlikely to result in negative impact to the community. Improved protection of heritage items from correcting errors to mapping and listings is expected to have a positive impact on the local community.

### **Environmental**

Direct impacts to threatened species and their habitats from the proposal are unable to be quantified until the development application stage. Improved mapping of groundwater vulnerability, drinking water catchment and flooding are expected to have a positive impact on the management of these natural resources.

### **Economic**

The planning proposal will provide greater flexibility and certainty for development in certain locations and zones. This is expected to have a positive impact on the local economy from improvements to the development application process.

## **CONSULTATION**

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### **Community**

Council have proposed a 28-day community consultation period to exhibit the planning proposal. This is considered a suitable length given the proposal involves minor amendments to multiple locations and parts of the Orange LEP.

### **Agencies**

Council have not proposed any agency consultation. From the section 9.1 Directions, agency consultation required is with SES and OEH to meet the requirements of Direction 4.3 Flood Prone Land.

## **TIME FRAME**

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Council estimated the timeframe for requesting the LEP be made would be 10 months. This timeframe does not include time it would take to finalise the LEP. Therefore, it is recommended that 12 months be granted to make the LEP.

## LOCAL PLAN-MAKING AUTHORITY

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Council originally requested to be the local plan-making authority, however, acknowledged there may be conflict of interest as the planning proposal will affect Council owned land. Therefore, it is recommended that the Department retains delegation to make the LEP.

## CONCLUSION

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It is expected that the planning proposal will greater flexibility and certainty for development by ensuring mapping is accurate and land uses are reflected in appropriate zones. The planning proposal is supported to proceed with conditions.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions (Direction 1.1 Business and Industrial Zones, 1.3 Mining, Petroleum Production and Extractive Industries, and 6.3 Site Specific Provisions) are minor or justified; and
2. note that the consistency with section 9.1 Directions (4.3 Flood Prone Land) is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, Council is to undertake a preliminary review of the 1 Barrett Street land. Council is to prepare an initial site contamination investigation report that satisfies the requirements of State Environmental Planning Policy (SEPP) 55—Remediation of Land to demonstrate that the land is suitable for rezoning to the proposed R1 General Residential zone. The preliminary review and initial site contamination report are to be placed on public exhibition with the planning proposal.
2. Prior to community consultation the planning proposal is to be updated to include amendments listed in **Attachment 1**. Council is to provide the Department with a copy of the amended planning proposal for approval to proceed to community consultation.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2018).
4. Consultation is required with the following public authorities under section 3.34(2)(d) of the Act and to comply with the requirements of section 9.1 Direction 4.3 Flood Prone Land:

- State Emergency Services.
- Office of Environment and Heritage.

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

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. Prior to submission of the planning proposal under section 3.36 of the Act, the LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps 2018'. An additional permitted use map must be prepared for the 120 Calton Road land.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.



14.6.19

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19.6.19

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