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Environment

IRF21/1533

Gateway determination report – PP-2021-2977

Amend height of building and permit additional use for the Eastside Precinct renewal, Orange.

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Table - Reports and plans supporting the proposal

Relevant reports and plans
Report- Planning Proposal No. 31 – Orange LEP 2011 Eastside Precinct Amendment dated February 2021
Masterplan- Orange Eastside Precinct Plan and Site-Specific Controls prepared by GHD dated September 2020
Plans- Orange Eastside Precinct Plan dated prepared by GHD Woodhead 01/09/2020
Council minutes- dated 6 April 2021
Report- Planning Proposal No. 31 – Orange LEP 2011 Eastside Precinct Amendment dated February 2021

1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 1 Planning proposal details

LGA	Orange City Council
PPA	Orange City Council
NAME	Amend Height of building and include additional permitted use for parts of Eastside Precinct, Orange.
NUMBER	PP-2021-2977
LEP TO BE AMENDED	Orange Local Environmental Plan (OLEP) 2011
ADDRESS	Parts of Eastside Precinct, Orange
DESCRIPTION	More details on section 1.3 of the report
RECEIVED	9/04/2021
FILE NO.	IRF21/1533
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

Part 1 on page 1 of the planning proposal report contains objectives and intended outcomes that adequately explain the intent of the proposal.

The planning proposal intends to incentivise and facilitate renewal of Eastside Precinct at Orange and encourage compatible uses that will support commercial activity and residential living in the Orange CBD, by amending:

- Height of Building (HOB) from 12m to 16m;
- Schedule 1 of OLEP 2011 to include additional permitted uses for the subject sites. The additional uses are Residential flat buildings, Attached dwellings, Secondary dwellings, Seniors housing and Centre-based child care facilities; and
- associated Additional Permitted Use (APU) Maps as required by this proposal.

For the purpose of this proposal, the subject sites have been separated into 3 groups of areas. Further details of the sites as per their areas can be found under section 1.3 of this report. This is due to - amongst the properties located within Eastside village, majority of the lots are impacted by both sought amendments, however, others are only impacted by either one of the amendments. As a result, the 3 areas are identified as-

- Area A- Impacted by both HOB and APU amendments
- Area B- Impacted by HOB amendment only

- Area C- impacted by APU amendment only

1.2 Explanation of provisions

The planning proposal seeks to amend the Orange LEP 2011 per the changes below:

Table 2 Current and Proposed controls

Control	Current	Proposed
Height of Building	Area A- 12m Area B- 12m Area C- 12m	Area A- 16m Area B- 16m Area C- Unchanged
Schedule 1 Additional Permitted Use and APU map(005C)	Area A- no additional uses permitted Area B- no additional uses permitted Area C- no additional uses permitted	Area A- Additional uses included Area B- Unchanged Area C- Additional uses included

Part 2 on page 1 of the planning proposal report contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. It is proposed to use Additional Permitted Use (APU) to allow for certain uses to revitalise this area.

To achieve the intended mix of commercial and residential, Council considered the use of a new zone from all potential business zones in the LEP. Zone B4 - Mixed Use was the only zone that would achieve the desired uses. However, zone B4 along with all other zones in the LEP would also permit uses that are not intended for the precinct. In addition, rezoning the precinct to zone B4- Mixed use (Council Report page 2) may compromise the primacy of the Orange CBD.

Council has been protective of the Orange CBD and retention of zone B6 with the APU to allow residential uses is a good method to achieve the desired outcome. This process has been utilised by Council before to allow additional uses to certain sites. By permitting additional uses, Council is supporting the proposed land use change with master planning work that clearly outlines the vision for development in this area.

On balance, permitting additional uses and amending height of building for land within the precinct is the most streamlined process to achieve the intended outcome. At drafting, consideration can be given to include an additional specific zone objective that supports the rejuvenation and revitalisation of Eastside precinct. The new objective can be used to justify development within Eastside Precinct that may not be mixed use.

It should be noted that Seniors Housing is permitted in urban areas under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Council is aware of these provisions, however, believe this amendment will strengthen support for the development of Seniors housing in the Precinct, as the use is currently prohibited in zone B6- Enterprise Corridor however this will be subject to final legal drafting of the instrument.

1.3 Site description and surrounding area

The subject sites are identified as part of Eastside Precinct located to the east of Orange CBD.

It should be noted that land south of Endsleigh Park, (land bounded by Kite Street, Endsleigh Avenue and the railway line) known as, Lot 15 DP 1134650 is Council owned and is currently used as a car park. Council has advised that the land is classified as community land and provided a Certificate of Title that indicates there are no reservations or interests that need to be changed.

Council has not indicated that the classification of this land will be changed. Should Council wish to reclassify this land in the future a separate planning proposal will be required. This land is within Area A and the concept plans indicate that it could be a multi storey carpark and mixed use development.

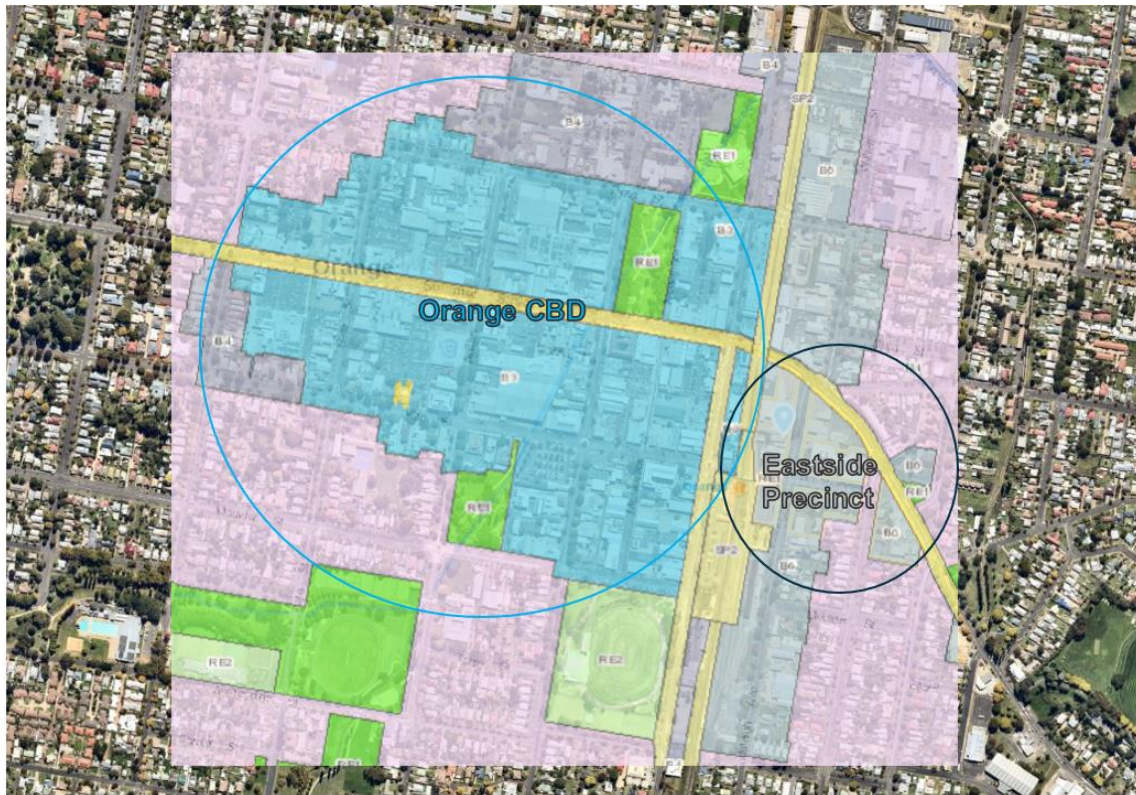


Figure 1 Subject sites (source: NearMap 2021 and ePlanning Spatial Viewer 2020)

For the purpose of this proposal, the subject sites are separated into 3 areas as discussed previously.

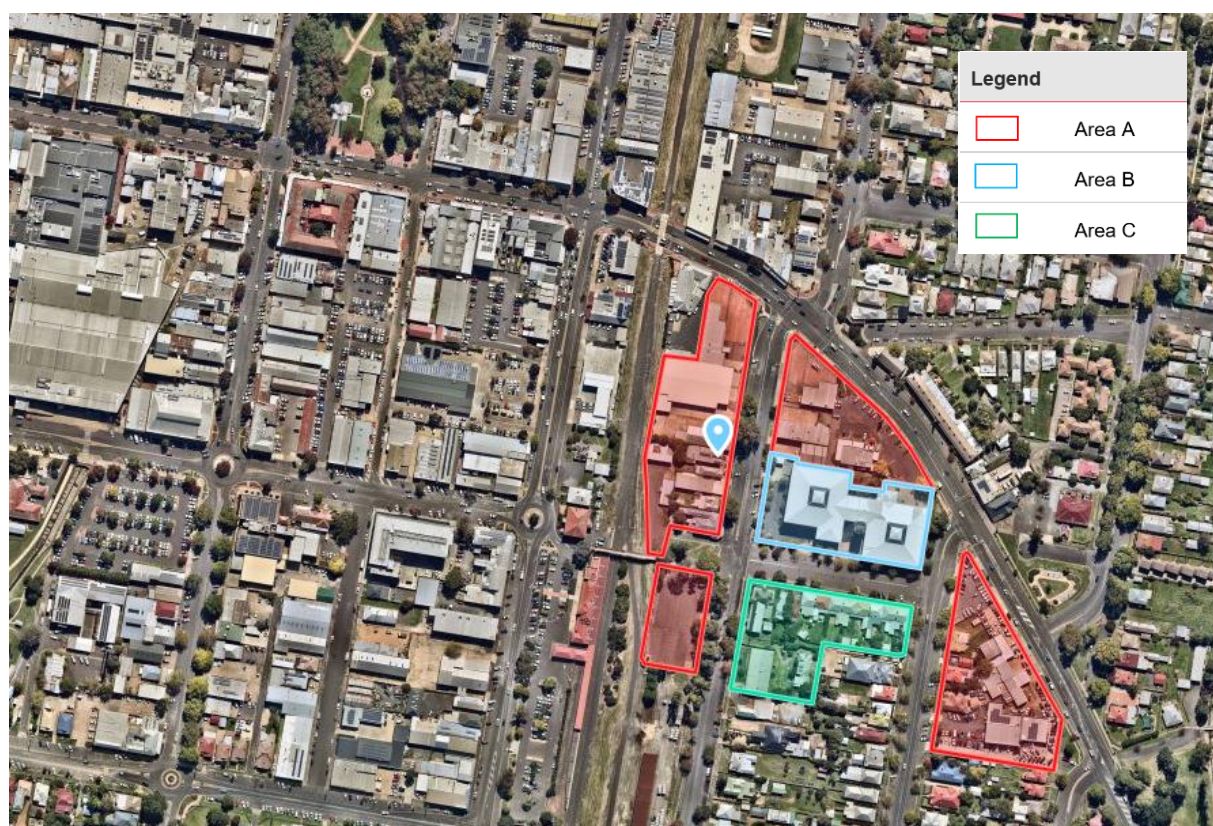


Figure 2 Eastside Precinct categorised in accordance to the proposed amendments (source: NearMap 2021)

The lots included in each of the area are: -

Area	Address	Lot and DP
Area A	344-348 Summer Street, Orange	Lot 10 DP 1132756
	123 Endsleigh Avenue, Orange	Lot 1 DP 543220
	121 Endsleigh Avenue, Orange	Lot 1 DP 196112
	115 Endsleigh Avenue, Orange	Lot 8 DP 1069072 and Lot 1 DP 770265
	117 Endsleigh Avenue, Orange	Lot 1 DP 79594
	119 Endsleigh Avenue, Orange	Lot 1 DP 782656
	113 Endsleigh Avenue, Orange	Lot 1 DP 797691
	155 Kite Street, Orange	Lot 11 DP 1002968
	2-6 Bathurst Road, Orange	Lot 10 DP 1069827
	124-126 Endsleigh Avenue, Orange	Lot 721 DP 791552
	122 Endsleigh Avenue, Orange	Lot 1 DP 716499
	12-14 Bathurst Road, Orange	Lot 732 DP803342

	24 Bathurst Road, Orange	Lot 1 DP 89761
	30-34 Bathurst Road, Orange	Lot 1 DP 90199
	36 Bathurst Road, Orange	Lot 2 DP 507837
	38-44 Bathurst Road, Orange	Lot 38 DP 507837
	85-89 McLachlan Street, Orange	Lot 200 DP 1098143
	168 Edward Street, Orange	Lot 1 DP 799998 and Lot A DP 151880
	170 Edward Street, Orange	Lot 1 DP 194500
	172-174 Edward Street, Orange	Lot 1 and Lot 2 DP 795289
	Endsleigh Avenue, Orange	Lot 15 DP 1134650
Area B	159-179 Kite Street, Orange	Lot 814 DP813348
Area C	160 Kite Street, Orange	Lot A DP 150529
	162 Kite Street, Orange	Lot B and Lot DP 150529
	164 Kite Street, Orange	Lot C DP 150529
	166 Kite Street, Orange	Lot 1 DP 794527
	168 Kite Street, Orange	Lot 1 DP 708884
	170 Kite Street, Orange	Lot 61 DP 882905
	172 Kite Street, Orange	Lot 2 DP 38847
	174 Kite Street, Orange	Lot 3 DP 38847
	176 Kite St, Orange	Lot 4 DP38847
	178 Kite Street, Orange	Lot 5 DP 38847
	180 Kite Street, Orange	Lot 6 DP 38847
	110A Endsleigh Avenue, Orange	Lot 12 DP 519990
	102-110 Endsleigh Avenue, Orange	being Lot 11 DP 519990

1.4 Mapping

The planning proposal does not include any maps showing the proposed changes to the Height of Building (HOB) and Additional Permitted Use (APU) maps. Only plans included as part of the planning proposal were the Eastside Masterplan related plans. LEP Maps (HOB_008C and

APU_008C) that are suitable for community consultation will need to be prepared prior to public exhibition.

2 Need for the planning proposal

Eastside Precinct is located to the East of the current CBD. Recently, Department of Industries office in Orange has relocated out of Eastside Precinct and major retailers in the precinct are considering relocating elsewhere in Orange. Vacancy of premises within and near this precinct has generated the need for timely planning response to facilitate the rejuvenation and growth of the precinct. The Orange Eastside Precinct Plan- Site specific Development Controls recommends a series of amendments to the Eastside Precinct in order to accommodate growth for Eastside Precinct. The planning proposal gives effect to the intended outcomes for the Eastside Precinct area. The proposal applies to a broad area and there is no other process available to achieve such intent in a timely and streamlined manner. Furthermore, the proposal will facilitate the development of the Eastside Precinct in order to revitalise the area, strengthen the functions of CBD by providing additional commercial and residential capacity in the area.

3 Strategic assessment

3.1 Regional Plan – Central West and Orana Regional Plan 2036 (CWORP)

Orange is a major regional city in the Central West and Orana Region and can capitalise on its proximity to Sydney, Bathurst and Dubbo. Orange has been experiencing a growth in the area and the proposed amendments will enable a range of directions in the CWORP. The following table provides an assessment of the planning proposal against relevant aspects of the CWORP.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 10: Promote business and industrial activities in employment lands	The additional commercial and residential premises will attract retail and small business within the precinct by revitalising the Eastside Precinct. The new business will also be supported by the additional anticipated residents in the area.
Direction 12: Plan for greater land use compatibility	The proposal for the Eastside Precinct will result in greater land use compatibility by providing additional residential and employment capacity near existing services and CBD. In addition, the revitalisation will contribute to reduced demand for additional greenfield development resulting in less land use conflict and fragmentation within rural land.
Direction 22: Manage growth and change in regional cities and strategic local centres.	The proposal will facilitate growth of the CBD by providing additional commercial and residential premises, while utilising existing services by intensifying use of the Eastside Precinct. Additional population will support the function of the local centre.
Direction 25: Increase housing diversity and choice.	The proposed amendment will give effect to this direction by providing additional housing within proximity to the Orange CBD. These additional dwellings will be located close to accessible services, as well as, providing opportunity to introduce housing diversity near the CBD.

Direction 26: Increase housing choice for seniors	The potential for additional residential premises within the CBD will increase opportunities to provide suitable seniors housing near existing services.
Direction 29: Deliver healthy built environments and better urban design	The proposal will facilitate reinforcement of good urban design principles in the area by increasing utilisation of the lands and existing services. The new premises can be constructed to the current urban design principles, thus ensuring provision of healthy built environment.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Orange Local Strategic Planning Statement	<p>The proposal will increase CBD commercial function viability and provide diverse housing choices in Orange, particularly near the CBD. The proposed additional height will increase development desirability of the land and facilitate provisions of active street front development improving the public domain of the Eastside Precinct. The proposal will enable construction of premises with the current design standard for buildings and will implement good urban design principles. All developments will also be utilising existing infrastructure, allowing Council to redirect the funding to appropriate projects rather than building new infrastructures.</p> <p>To summarise, the proposal will give effect to-</p> <ul style="list-style-type: none"> • Planning Priority 2 – Support the delivery of new homes in residential release areas, including North Orange and Shiralee, and increase the range of housing options in existing urban areas. • Planning Priority 4 – Provide diverse housing choices and opportunities to meet changing demographics and population needs, with housing growth in the right locations. • Planning Priority 9 – Enhance local and neighbourhood centres as great, connected places, whilst maintaining the regional town atmosphere. • Planning Priority 18 – Advocate for development to be supported by infrastructure.
Orange Eastside Precinct Plan and Site Specific Controls (OEPPSSC)	<p>OEPPSSC is the Masterplan endorsed by Council in February 2021. This Masterplan has not been endorsed by the Department. The proposal gives effect to the intended compatible mix of diverse commercial and retail uses, additional population to support such uses within Eastside Precinct and the Orange CBD. The proposal will also facilitate redevelopment and rejuvenation of the precinct by encouraging street activation and creation of new public domains. It should be noted that the strategy proposed an increase of height to 14m where the proposed amendment seeks an increase height to 16m. Council has indicated that previously, HOB increase of 2m (as suggested by the strategy) has not been sufficient to incentivise the rejuvenation of any sites, as such, Council proposed an increase of 4m. In principle, the increase is acceptable as it will enable provision of additional development potential in the sites, resulting in increased investment desirability and further utilisation of existing services</p>

by intensifying uses on sites. However, impact on the adjoining heritage buildings is to be reconsidered by consultation with Heritage NSW and through public consultation.



Figure 3 Orange Eastside Precinct Masterplan (source: OEPPSSC 2021)

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Business and Industrial Zones	Consistent	The proposal is consistent with this Direction by encouraging long term and short-term employment in the area as well as by supporting viability of Orange CBD. Council has undertaken adequate work to justify the proposed changes. No further work is required in relation to the LEP amendment.

2.3 Heritage Conservation	Consistent	The proposal provides adequate consideration to this Direction on page 18 and 19 of the report. There are no changes to the heritage requirements or provisions. It is anticipated that endorsed OEPPSEC has considered development near heritage buildings and heritage conservation area. This proposal gives effect to the endorsed masterplan and detailed consideration will be undertaken during the Development Assessment (DA) stage. However, it is recommended that consultation with Heritage NSW is undertaken as part of the public consultation process for the proposed additional height.
3.1 Residential Zones	Consistent	The proposal will enable broader choice of building type in the area, reduce residential demand by increasing density and enforce good design. No further work is required in relation to the LEP amendment.
3.4 Integrating Land Use and Transport	Consistent	The proposal will facilitate construction of dwellings and other relevant services near Orange CBD and Orange Railway station. The new premises will have access to public transport and services, thus reducing the dependency on cars. Anticipated new development will provide improved public domain and pedestrian movement ability. Transport for New South Wales (TfNSW) and John Holland Rail (JHR) is required to be consulted during the public exhibition for comments for the adjoining rail station. Detailed impacts from the adjoining rail station will be considered during the development assessment stage.
5.10 Implementation of Regional Plans	Consistent	As discussed under section 3.1 of this report. No further work is required in relation to the LEP amendment.
6.3 Site Specific Provisions	Consistent	The proposal will facilitate additional uses of the land by amending Schedule 1 of the OLEP 2011, which will result in the additional uses only applying to the land in Eastside Precinct.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Proposal	Complies
SEPP (Infrastructure) 2007	Consultation with TfNSW for development adjacent to rail corridor	The proposal will facilitate development near the rail corridor and Orange station. Consultation with TfNSW and JHR is required for comments on the proposed amendments. However, Council will consult with TfNSW during DA stage in detail.	Considered during DA stage

SEPP No. 55 Remediation of Land	Whether the land is contaminated	The additional land uses are intensified uses of already existing permitted land use. Council will consider detailed impact of present contamination during the development assessment (DA) stage due to intensification of use and development near a rail land. The land is already urban and the appropriate detailed investigations can be undertaken at the detailed Development Application stage.	Considered during DA stage
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4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Ground Water Vulnerability	The subject land is identified to have Groundwater Vulnerability under the OLEP 2011. The proposal will facilitate intensification of in the sites which are not uncharacteristic of urban uses that are intended for the sites and surrounding area. The lots are serviced with water and sewerage services. Further detailed consideration can be given during the Development Application stage. The development area will be serviced with reticulated water and sewerage services.
Contamination	As discussed above in section 3.4 of this report.
Noise impact	The impact from the railway related use and commercial activity will be considered during the development assessment stage. Consideration of the development will require suitable design solutions and use of appropriate materials during for the construction.
Solar access	The increased permissible height of the precinct will require further consideration to the solar access issue during the Development Application stage. Appropriate solutions (building separation, façade articulation) can be provided at the design stage of the development.
Heritage	As discussed, section 3.3 (Direction 2.3) of this report. There are no changes to the heritage requirements or provisions. Community engagement and consultation with Heritage NSW will be required to ascertain potential heritage issues.
Visual Impact	Visual impact can be assessed in detail during the Development Application stage.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Housing Diversity and Availability	The proposal will facilitate additional dwellings in the Orange, which can be constructed to suit various demographics needs. Furthermore, the additional dwellings will help reduce demand for housing in Orange and increase housing choice and affordability in the area that is close to the Orange CBD.
Employment	The additional dwellings will increase short-term construction jobs in Orange. Furthermore, the additional dwellings/population will increase demands for local services which may result in additional long-term jobs in the area, as well as existing Orange CBD businesses and services.
Public Domain and Access to Services	The proposal will facilitate new public domains with improved infrastructure as well as services. The additional dwellings, some of which will be intended for social housing (Housing for Seniors or People with a Disability) which are also located close to CBD and services.
Orange Central Business District	The proposal will rejuvenate the Eastside Precinct in addition to supporting and strengthening the functions, services and business of the CBD by facilitating provisions of additional residents.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 9 Infrastructure assessment

Infrastructure	Assessment
Infrastructure	The additional dwellings will be serviced by existing infrastructure and development for the sites will result in upgrading the services on and around the site such as footpaths, water and sewerage pipes etc. Utilisation of existing services will allow Council to effectively use infrastructure resources. All urban services are available to the area.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms to the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- Transport for NSW – as part of the land has frontage to the Mitchell Highway.
- John Holland - the land adjoins rail infrastructure
- Heritage NSW - change to HOB and increased development potential relation to the Heritage items and the Heritage conservation area.

6 Timeframe

Council proposes a nine (9) month time frame to complete the LEP.

The Department supports a time frame of nine (9) months to ensure it is completed in line with its commitment to reduce processing times. It is recommended that if the Gateway is supported as it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has indicated that it would like to exercise its functions as a Local Plan-Making authority. It is noted that Council owns Lot 15 DP1134660 the carpark bounded by Kite Street, Endsleigh Avenue and the railway line. The land is community land. Council has not indicated that there will a change is classification as part of this proposal.

Having regard to the nature of the planning proposal is the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal will provide additional dwellings options to meet housing needs of the area;
- The proposal will encourage a variety and choice of housing type in Orange;
- The proposal will provide additional commercial and retail premises proximity to the CBD;
- The proposal will enable provision of improved public domain;
- The proposal will strengthen and support the business and functions of the Orange CBD;
- The proposal will contribute to utilisation of existing infrastructure and services; and
- Council already has undertaken master planning for this area.

9 Recommendation

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

1. The planning proposal is to be updated to:
 - Check and update all address for the properties involved.
 - Remove references to multi dwelling housing from the proposal.
 - Include details for Council owned land Lot 15 DP 1134660.
 - Update all mapping in the report to remove the green polygons on properties.
 - Prepare relevant HOB and APU maps to accompany the PP.

2. Prior to community consultation, the planning proposal is to be revised to address conditions 1.
3. Consultation is required with the following public authorities:
 - Transport for NSW as part of the land has frontage to the Mitchell Highway
 - John Holland Rail – as the some of the land adjoins rail infrastructure
 - Heritage NSW for the additional height in relation to the Heritage items and Heritage conservation area.
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The planning proposal must be exhibited 2 months from the date of the Gateway determination.
6. LEP mapping being compliant with the Technical guidelines including an additional permitted uses map.
7. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
8. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



 (Signature)

18/5/2021 (Date)

Wayne Garnsey

Manager, Western Region



(Signature)

(Date)

19.5.21

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