



Mr David Waddell  
Chief Executive Officer  
Orange City Council  
PO Box 35  
ORANGE NSW 2800

Dear Mr Waddell

**Planning proposal [PP-2021-5680] to amend Orange Local Environmental Plan 2011 – Rosedale Gardens**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 9 December 2021 in respect of the planning proposal to amend planning controls to facilitate increased residential development up to 700 lots for Rosedale Gardens at 440 Clergate Road and 463 Leeds Parade, Orange.

As delegate of the Minister for Planning and Homes, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

Please note the conditions reflect the Department's support for the intent of the proposal to increase potential residential yield to 700 lots however further justification is required for:

- Reduction of Minimum Lot Size to 2,000m<sup>2</sup> across the entire site despite steep terrain restrictions on the land where the slope is 20% or more.
- Rezoning to R5 Large Lot Residential across the entire site despite environmental values and development constraints on the land such as biodiversity values, riparian corridors, electricity easements and need for open space.

The current development controls at Rosedale Gardens were only recently agreed to and notified through the Orange Local Environmental Plan 2011, Amendment 13 on 21 February 2020. The values and constraints reflected in these development controls are still present at Rosedale Gardens and adequate justification for changes to lot size and zoning provisions has not yet been provided.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Directions 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land, 4.4 Planning for

Bushfire Protection, 5.10 Implementation of Regional Plans, 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions. Council should ensure this occurs prior to the plan being made.

Before community consultation, Council is to update the planning proposal to address the additional information requested in Condition 1 of the Gateway determination and then consult with agencies as per Condition 2.

I have considered Council's request to be the local plan-making authority and have determined not to condition the Gateway for Council to be the local plan-making authority due to the updates to the planning proposal and consultation with agencies that are required before key provisions of the proposal (eg. zones) can be supported. Council may request to become the local plan-making authority again before community consultation if these concerns are adequately addressed.

The amending local environmental plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

All related files for the LEP amendment must be submitted to the Department via the Planning Portal Website at [www.planningportal.nsw.gov.au/reporting/online-submission-planning-data](http://www.planningportal.nsw.gov.au/reporting/online-submission-planning-data). Council is reminded to update the Planning Portal and notify the Department, Western Region Office when the plan making milestones are achieved.

Should you have any enquiries about this matter, I have arranged for Ms Nikki Pridgeon to assist you. Ms Pridgeon can be contacted on 5852 6800.

Yours sincerely



23 December 2021

**Garry Hopkins**  
**Director, Western Region**  
**Local and Regional Planning**

Encl: Gateway determination