



Department of Planning and Environment

Our ref: PP-2021-5680/IRF22/2565

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

Attention: Craig Mortell, Senior Planner - Development Services

Dear Mr Waddell

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

Thank you for your correspondence of 2 June 2022 and updated planning proposal of 13 July 2022.

Council has asked whether conditions 1 to 3 of the Gateway determination dated 23 December 2021 have been satisfactorily completed and whether the planning proposal can proceed to community consultation.

The planning proposal is not ready for community consultation. The following must be addressed by Council before the proposal can proceed to community consultation:

1. As Planning Proposal Authority, Orange City Council is responsible for the governance of the planning proposal. Council has requested the planning proposal proceed to exhibition but has not addressed all the matters raised by agencies.

Section 4.5 of the revised planning proposal states the view of State agencies will be obtained post-Gateway, which has now occurred. This part of the planning proposal should be updated to show the issues raised by agencies and how they have been addressed. Agency correspondence received in meeting Gateway conditions will be publicly available and the community should be able to see how Council has considered and responded to matters raised when the proposal is exhibited.

2. Condition 1 is satisfied except for the following:

- steep terrain - the revised planning proposal provides discussion and a proposed new map for steep terrain where slopes greater than 20% have been mapped. However, the maps do not include all land that has a terrain greater than 20% terrain when compared to the slope analysis (Figure 14), and there is no text in the planning proposal justifying this discrepancy.
- SP2 zone – it is understood that further consultation with Transgrid is proposed. The planning proposal shows alternative options for zone and lot size maps but there is no discussion about when the different options would apply and at what stage a decision would be made. The community needs to understand the link between these maps and Transgrid.

- RE1 public recreation - the planning proposal does not adequately describe the reason why the RE1 zone is proposed to be removed and the methods by which Council will ensure land for recreation and open space is provided to Council's satisfaction. There is a reference to this being provided in the short term by a DCP but no indication of how this will work. The community viewing this planning proposal needs to understand how the loss of RE1 zoned land will be offset by recreation and open space land in the R5 zone. At this stage Ministerial Direction 6.2 - Reserving Land for Public Purposes has not been resolved and will need to be before the planning proposal is submitted for finalisation.
- C4 Environmental Living area – see discussion below under BCS response.
- Contamination of land - although the contamination report has recommended that the land can be made suitable, Transport for NSW required further work near the railway corridor.

3. Condition 2:

- Biodiversity, Conservation and Science Directorate (BCS)

Council's email correspondence of 2 June 2022 refers to a (then) upcoming meeting with BCS but no advice has been provided as to whether matters raised by BCS have been resolved.

BCS earlier advice requested the planning proposal map High Environmental Value (HEV) areas and identify how these will be avoided.

The revised planning proposal has included a map (Figure 4) described as 'Current high environmental value/sensitivity map' however there is no reference to this map in the planning proposal, including what it represents and how it relates to BCS's advice or to section 9.1 Direction 2.1 Environmental Protection Zones. The planning proposal also includes a 'concept site layout' which does not reflect the areas of sensitivity shown on Figure 4.

Orange LEP 2011 includes mechanisms to consider areas with high environmental value at development application stage (eg. cl. 7.4 and 7.5) however the narrative of how this might apply in this case is not documented in the planning proposal.

Updated mapping of environmental sensitivity to amend the LEP map layers, identification that the 'concept site layout' is subject to development assessment and may not be achieved given LEP provisions, and confirmation that there are no areas of sensitivity requiring specific conservation zoning could resolve the concerns raised by BCS and address the inconsistency with Section 9.1 Direction 2.1 Environmental Protection Zones which remains unresolved.

- Transport for NSW (TfNSW) – the amended proposal does not address or document the issues raised by TfNSW.
- Cabonne Council - the amended proposal does not refer to concerns raised by Cabonne Council in relation to potential land use conflict with adjoining rural land or how these will be addressed.

- Heritage NSW (HNSW) - the amended proposal does not address HNSW comments requiring archaeological test excavation and update to the due diligence report.

It is noted that no response has been received from John Holland Rail, Transgrid, Water NSW, NRAR, NSW RFS and Charles Sturt University. Section 4.5 of the Planning Proposal should be updated to show that consultation occurred but no response was received.

In updating the planning proposal in response to agency submissions, Council may determine that some matters are best handled at development application stage and through the proposed Development Control Plan. This may be appropriate, but Council should be clear about what will be included in the DCP and when it will be available for community consultation.

If you have any more questions, please contact Wayne Garnsey, Manager at the Department of Planning and Environment on 58526800.

Yours sincerely



2 August 2022

Garry Hopkins
Director, Western Region
Local and Regional Planning