



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

## Gateway Determination

### ***Planning proposal (Department Ref: PP-2021-5680): Rosedale Gardens***

I, the Director, Western Region at the Department of Planning and Environment, as delegate of the Minister for Planning and Homes, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Orange Local Environmental Plan (LEP) 2011 to facilitate up to 700 residential lots at 440 Clergate Road and 463 Leeds Parade, Orange should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to agency consultation to:
  - (a) Address steep terrain through appropriate local development controls.
  - (b) Provide additional justification for the proposed removal of the SP2 Infrastructure, RE1 Public Recreation and C4 Environmental Living zones, and to demonstrate consistency with:
    - i. Section 9.1 Directions 2.1 Environmental Protection Zones and 6.2 Reserving Land for Public Purposes.
    - ii. Directions 13, 14 and 15 of the Central West Orana Regional Plan 2036.
  - (c) Include discussion of section 9.1 Direction 2.6 Remediation of Contaminated Land to demonstrate the Planning Proposal Authority is satisfied the land can be adequately remediated and be made suitable for all future land uses; and
  - (d) Update discussion on the proposed lot averaging clause to include Council's overall objectives for the site and to support their consideration at the development assessment stage.
2. Before community consultation, consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - Transport for NSW.
  - John Holland Rail.
  - TransGrid.
  - DPIE Water.
  - Natural Resources Access Regulator.
  - DPIE Biodiversity and Conservation Division.
  - Heritage NSW.
  - Environment Protection Authority.
  - Rural Fire Services.
  - Cabonne Shire Council.
  - Charles Sturt University

Each public authority/organisation 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.

3. The planning proposal is to be revised to address agency feedback and forwarded to the Department for review and approval to progress to community consultation.
4. 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).
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. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 23<sup>rd</sup> day of December 2021.



**Garry Hopkins**  
**Director, Western Region**  
**Local and Regional Planning**  
**Department of Planning and**  
**Environment**

**Delegate of the Minister for Planning**  
**and Homes**