

D22/58430
F3800

26 September 2022

Garry Hopkins
Department of Planning and Environment
PO Box 58
DUBBO NSW 2830

Dear Garry

ORANGE LOCAL ENVIRONMENTAL PLAN 2011 – AMENDMENT 33 ROSEDALE GARDENS

Reference is made to your letter dated 2 August 2022 outlining matters that needed to be addressed or clarified prior to Amendment 33 being deemed fit for public exhibition. As well as advising of Council's response to the matters raised it is intended that this letter will form part of the public exhibition materials. This will assist the public to better understand which matters form part of the planning proposal itself, which are intended to be addressed via a detailed Development Control Plan and which matters are anticipated to be addressed at the Development Application stage.

Broadly speaking there are three aspects to the overall project;

- 1 The **Planning Proposal (PP)** that seeks to rezone the land and adjust the minimum lot size map to facilitate a more flexible approach to designing the final estate layout. This component is what is proposed to be placed on public exhibition at this time. Once the PP has been resolved Council will work with the proponent to deliver the second component.
- 2 Preparation of a **Development Control Plan (DCP)** to provide Council and the community detailed controls to manage various matters that are not directly related to the zone or lot size provisions of the LEP. Some of the matters will be addressed via DCP provisions. The DCP will be subject to a public exhibition process and this will also include the range of agencies that have been consulted to this point.
- 3 Preparation of a **Development Application (DA)** to present the development in full as intended by the proponent. The DA would then be assessed against both the LEP and DCP, with conditions of consent imposed to ensure that the full range of matters canvassed throughout the process are appropriately managed. The DA is likely to be in the form of a staged development and some matters will only be relevant to some stages.

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Regarding the matters raised in your letter of 2 August 2022, brief overviews of each are as follows:

Issue: Agency Responses - The Planning Proposal should be updated in response to matters raised by agencies.

Response: The PP document has been updated – refer to Table 5 of the PP for an overview.

Issue: Steep Terrain - Steep terrain maps do not include all land greater than 20% slope.

Response: Figure 16 has been added to show steep areas and section 3.1.2 confirms the approach to be taken with respect to steep land. This will be further refined during preparation of the DCP.

Issue: SP2 Zone - Subject to consultation with Transgrid the transmission line may be relocated/undergrounded, enabling a change to the current zone and lot size map. The PP does not clarify when the different options would apply and at what stage a decision would be made

Response: Figures 10 and 12, as well as Section 3.1.4, have been added to clarify the options in relation to the overhead electricity transmission lines. The preferred option is to realign the transmission line to correspond with the proposed road network and undergrounding the line. Should Transgrid approval not be obtained for this approach, a second option of undergrounding the transmission line along its current path would be explored. However, if agreement is still not reached the transmission line will remain as and where it currently is with the SP2 zone remaining in place.

For the purposes of exhibition, the proposal indicates the removal of the SP2 zone while these negotiations are continuing. If required, the SP2 zone can be reinstated prior to the plan being finalised. The proponent would then design relevant stages in response to the outcome of negotiations.

It is anticipated that this would be resolved as part of the Development Control Plan, and if necessary a further LEP amendment would be sought in due course. It should be noted that the SP2 zone does not affect the early stages of the site, and this affords significant time for the negotiations to be concluded.

At the present time the PP is seeking to rezone the SP2 land on the assumption that either the preferred or second options will be acceptable to Transgrid. However if such agreement is not achieved before the PP is finalised then the SP2 zone will remain unchanged, allowing the transmission line to remain as is for the foreseeable future.

Council's preference in the first instance is to ensure the safe, efficient and reliable operation and maintenance of the transmission line with no cost to, or impact upon the operations of Transgrid. Beyond this, placement of the transmission line underground (either in the present corridor or realigned to match a future street layout) is supported as it would enhance the urban environment and provide for a more efficient use of land.

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Issue: RE1 Public Recreation - Further reasoning for the removal of the RE1 zone and methods by which Council will ensure land for recreation and open space is provided to Council's satisfaction.

Response: The removal of the RE1 zone is to provide greater flexibility in the final design and avoid the creation of split zoned lots whose status may then inhibit their orderly development.

The net amount of public recreation land is to be retained, and in fact slightly increased to 25ha consistent with the original proposal. Such land will be identified in the DCP masterplan, and once the subdivision DA has been assessed a future housekeeping amendment to the LEP will restore the RE1 zone to those areas provided from public open space.

The proposal includes a local clause to limit the total number of residential lots to 700, and combined with a reduction to the minimum lot size the delivery of the open space land is protected, although the final distribution and configuration of the space may be adjusted as the DCP is prepared.

Issue: Contamination of Land - Transport for NSW recommended that further work near the railway corridor be undertaken to confirm/clarify the suitability of the land.

Response: - Appendix F details the outcomes of updated soil sampling and confirms that all soil samples met the investigation criteria for all analytes.

Issue: Biodiversity, Conservation and Science (BCS) Directorate - Requested High Environmental Value (HEV) areas be identified and detail how these areas will be avoided. Concept layout inconsistent with 'current high environmental value/sensitivity map'. Update LEP map layers, identify that the concept 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.

Response: Figure 4 has been added to demonstrate that land mapped as HEV has been identified. The concept layout within the Planning Proposal is for illustration purposes only and is expected to be refined/amended during preparation of both the Development Control Plan and the Development Application.

Issue: Transport for NSW (TfNSW) - Range of issues (contamination, northern access via public level crossing at Pearce Lane, western access and upgrade of private level crossing, private overbridge, noise, vibration and air quality, stormwater management, future public transport provision).

Response: (response to this issue is provided on page 4 of this letter)

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Response: Table 5, cells 22 – 29 provides a detailed response to TfNSW issues.

- Contamination: Appendix F details the outcomes of updated soil sampling and confirms that all soil samples met the investigation criteria for all analytes.
- Northern Access: Existing crossing at Pearce Lane was upgraded to an active crossing around 2010 and meets current safety standards. Updated assessments will be undertaken during design of the DCP/DA stages. Connection is not required for the earlier stages. The northern connection is effectively a “back way” into the estate and is not anticipated to draw significant volumes of traffic, but is regarded as a potential emergency egress point. Ultimately, formal connection could be replaced with a lockable gate preserved for emergency vehicles if needed or preferred.
- Western Access: Not required for earliest stages. Relevant stages will be “locked” via the site specific DCP to ensure that necessary arrangements are completed and land is not released until such time as necessary upgrades to the satisfaction of TfNSW are completed.
- Private Overbridge: The licence for this overbridge has been handed in following cessation of the abattoir use. The overbridge is not part of the proposal and not intended to be used.
- Noise Vibration and Air Quality: Size, orientation and depth of lots will enable building envelopes to be positioned away from rail corridor to ensure that dwellings can achieve recommended separation without the need for architectural attenuation.
- Stormwater Management: the land falls away from the rail corridor; stormwater would thus flow to the east and pose no issue to the rail corridor.
- Future Public Transport: to be addressed at DA stage.

Issue: Cabonne Council - Potential land use conflicts with adjoining rural land and how these will be addressed.

Response: Section 4.5.4 and table 5 cell 18 respond to the matters raised by Cabonne Council. The matters can be addressed within the DCP and are likely to include the placement of building envelopes, vegetated buffers, community and buyer education, water sensitive urban design guidelines and management practices to address bushfire hazards. The establishment of a northern connection to Pearce Lane (discussed above in relation to TfNSW comments) would provide an additional egress point for emergency situations.

Issue: Heritage NSW (HNSW) - HNSW comments seek archaeological test excavation and update to due diligence report.

Response: (response to this issue is provided on page 5 of this letter)

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Response: Appendix H contains an Aboriginal Heritage Due Diligence Review. Section 4.5 also contains a response to matters raised. Discussions with Heritage confirmed that further investigations are to be conducted in the preparation of the DCP masterplan. Section 3.1.3 notes that the proposed clause to cap the estate at 700 lots, combined with the reduction in minimum lot size area, effectively creates an additional 20ha of flexibility in the design. This area of land can, if required, be set aside for protection purposes.

Additionally, the proposed clause is a maximum of 700 lots and not a requirement to achieve 700 lots. Therefore, should additional land be required for protection purposes, the overall lots developed can be reduced below 700. The proponent is fully aware of this potential outcome and has expressed confidence that the project would remain viable.

Issue: Noted that no response has been received from John Holland Rail, Transgrid, Water NSW, NRAR, NSW RFS and Charles Sturt University.

Response: Confirmed. No responses were received from the stated agencies. Note that UGL was consulted in addition to John Holland Rail owing to the transfer of the Country Regional Network management contract. The Planning Proposal will be circulated to all agencies again as part of the broader public exhibition process.

Yours faithfully



Paul Johnston

MANAGER DEVELOPMENT ASSESSMENTS