



IRF22/4437

Gateway determination report – PP-2022-2871

Car wash (Business premises)- 2 Hanrahan Place,
Orange

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Subject land map
Noise Impact Assessment
Council Report

Traffic and Parking Report

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Orange City Council
NAME	Car Wash (business premises) APU
NUMBER	PP-2022-2871
LEP TO BE AMENDED	Orange LEP 2011
ADDRESS	2 Hanrahan Place, Orange
DESCRIPTION	Lot 87 DP 1167633
RECEIVED	14/12/2022
FILE NO.	IRF22/4437
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

1.2 Objectives of planning proposal

The objectives of the planning proposal are to:

- Allow for a car wash (business premises) to be permitted with consent by amending the existing additional permitted use entry for the site in schedule 1 of the Orange LEP 2011.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	SP3 tourist	SP3 tourist

The subject site is currently listed in schedule 1 APU of the LEP which permits retail premises that consist of a liquor outlet or bottle shop with development consent.

The amendment of schedule 1 is required to facilitate the use of land for a carwash. Given 'carwash' is an innominate land use, it is characterised as a business premises.

1.4 Site description and surrounding area

The site sits within a tourist precinct zoned SP3 Tourist. This precinct currently contains land uses that support passing tourists from the adjoining Northern Distributor road on the northern side of Orange. The tourism precinct sits within a wider industrial related precinct. Existing land uses immediately adjoining the subject site include 2 petrol stations, a transport depot, a truck stop and Bunnings Warehouse. The proposed carwash is in keeping with the character of the adjacent land uses and there are no known land use conflict issues.

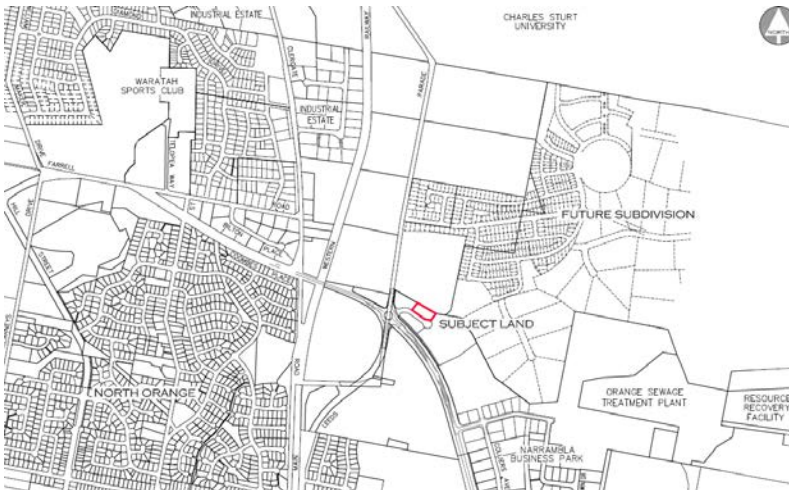


Figure 1 Subject site (Planning Proposal)

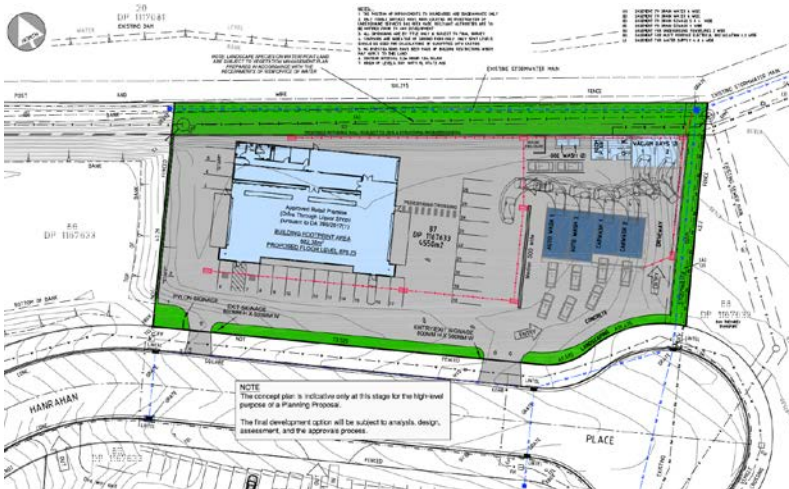


Figure 2 Proposed development layout – proposed carwash, eastern side and approved drive through bottle shop in the west (Planning Proposal)

1.5 Mapping

The planning proposal includes mapping which adequately identifies the land subject to this amendment. Given the subject site is currently mapped as an APU, there will be no LEP mapping amendments required.

1.6 Background

The subject site is currently listed in LEP schedule 1 additional permitted use to permit development for the purpose of retail premises that consist of a liquor outlet or bottle shop with development consent. This Gateway determination was made on 1 August 2016 and the LEP amendment notified on 7 April 2017. A development consent was issued in November 2017 for a retail premises (shop), (drive-through liquor shop) and business identification signage.

2 Need for the planning proposal

An amendment of the LEP is required to permit a car wash (characterised as a business premises) as this land use is currently prohibited within zone SP3 Tourist. The current schedule 1 APU listing (item 2) for this subject land does not permit the proposed land use.

There are several options available to provide development consent for the proposed carwash.

Rezone subject land

The subject site is zoned SP3 Tourist which prohibits business premises. There are a range of other land use zones that could potentially facilitate a business premises, such as zone B4 mixed use. However, given the subject site sits within a wider tourist zoned precinct such a land zone change would require further investigation into the need for an alternative zone and also the potential implications that may be created through permitting unintended land uses, and resulting land use conflict.

Amend zone SP3 Tourist land use table

The zone SP3 Tourist land use table currently prohibits business premises. Permitting business premises with consent in the land use table would have unintended impacts across the Orange LGA on land currently zoned SP3 Tourist. The potential impact of permitting business premises across all SP3 Tourist zoned land has not been assessed in-depth and would require a wider strategic approach. This method is not supported.

Additional permitted use

Permitting business premises by listing the use as an additional permitted use in schedule 1 of the LEP is the method suggested in the planning proposal. This approach is supported given:

- It allows for a tailored land use response that doesn't allow for other potentially non-suitable land uses within the wider tourist/industrial precinct such as post offices, hairdressers, dry cleaners, travel agencies which would be better suited within the Orange CBD.
- Is targeted to this subject site and limits the potential impact of unintended land use conflict on other land zoned SP3 Tourist across the Orange LGA.
- The subject land is currently listed in schedule 1 additional permitted use. Therefore, this method allows for a simpler LEP amendment process which involves using an existing consent pathway that applies to this subject land. Given the site is already listed in schedule 1, there is no additional mapping amendments required.

3 Strategic assessment

3.1 Regional Plan

The Central West and Orana Regional Plan 2041 (CWORP 2041) applies to this planning proposal. The planning proposal addresses the previous 2036 regional plan. The planning proposal is to be amended prior to public exhibition to reflect the current 2041 regional plan and demonstrate consistency.

The proposal is not inconsistent with the CWORP 2041 specifically with objective 18 'Leverage existing industries and employment areas and support new and innovative economic enterprises' and also objective 22, 'Support a diverse visitor economy'.

3.2 Local

The proposed LEP amendment is consistent with relevant local strategies as detailed below.

Business Centres Review Study

The planning proposal is not inconsistent with this study in that the proposed business premises will not jeopardise commercial and employment areas within the Orange CBD.

Orange City Council Local Strategic Planning Statement

The planning proposal provides an assessment of the amendment against relevant planning priorities in the Orange LSPS. The assessment provided in the planning proposal adequately demonstrates that the proposed LEP amendment is not inconsistent with the LSPS.

Sub-Regional Rural and Industrial Land Use Strategy (BCO)

The proposed development is consistent with the BCO. The BCO provides guidance and strategy for tourism land uses relevant to the proposed carwash. The BCO policy action 15.4 is to, 'encourage tourism development to be located to support and utilise facilities in existing settlements.' The proposed carwash is located on land zoned SP3 Tourist which takes advantage of the adjoining Orange bypass (Northern Distributor) as well as complements the adjoining service centres.

3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The proposal is consistent with the CWORP 2041 and its relevant strategies and priorities for Orange. The planning proposal has demonstrated consistency with the previous 2036 regional plan. The planning proposal is to be updated prior to public exhibition to reflect the current 2041 regional plan.
1.4 Site Specific Provisions	Yes	The proposal is consistent as it does not seek to include any additional development standards or requirements that are not already contained within the Orange LEP 2011. The use of schedule 1 APU to provide development consent is supported in this instance.
5.1 Integrating Land Use and Transport	Yes	The proposal is consistent with the objectives of this direction.

3.4 State environmental planning policies (SEPPs)

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

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021		Yes	The site is highly modified and contains no known native vegetation. The site is not identified on the Terrestrial Biodiversity Map.
SEPP (Transport and Infrastructure) 2021		Yes	The proposed development is accessed via the existing road network. It is not expected to generate traffic impacts that would significantly impact the function of the road network.

4 Site-specific assessment

4.1 Environmental

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

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Ground water vulnerability	The subject site is mapped as being ground water vulnerable. Clause 7.6. Groundwater vulnerability in the Orange LEP 2011 requires further consideration of potential groundwater impacts during the assessment of a development application. The planning proposal adequately demonstrates that there are methods and principles that could be followed to allow for ground water impact mitigation.
Biodiversity	The site is highly modified and forms part of an existing commercial/industrial precinct. The site is not mapped under the Orange LEP Terrestrial Biodiversity layer.
Contamination	Contamination of the site is not likely to be an issue for the proposed car wash. The planning proposal indicates that the development application that was approved for this site in 2017 did not identify land contamination as an issue.

Noise

The development of the site will need to consider sensitive receivers. The approved residential subdivision to the north of the subject site is approximately 300m at its closest point. A Noise Impact Assessment undertaken for the proposed development indicates that the predicted noise levels at the closest sensitive receivers will be below required noise thresholds. Given the nature of the surrounding noise sources (industrial development and the Northern Distributor) and the satisfactory Noise Impact Assessment, the planning proposal adequately demonstrates that there are no likely land use conflicts that will be generated from operating the proposed carwash.

4.2 Social and economic

The LEP amendment to permit a carwash is not likely to create any social or economic impacts. The amendment will generate additional employment at both the construction phase as well as ongoing operation of the facility.

4.3 Infrastructure

The site is able to be adequately serviced. The proposed carwash will not trigger the need for any infrastructure or road network upgrades.

5 Consultation

The planning proposal is categorised as ‘standard’ under the LEP Making Guideline. Therefore, it is recommended that a minimum 20 day public exhibition period be applied. The planning proposal is consistent with categorising the amendment as ‘standard’ but suggests a longer exhibition period of 28 days.

5.1 Agencies

There is no agency consultation required as part of this planning proposal.

6 Timeframe

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

The planning proposal does not contain details regarding the anticipated timeframe for the LEP making process. The Gateway determination is conditioned to require the planning proposal to be amended prior to exhibition to insert an indicative timeline to detail the anticipated timeframe for the LEP making process.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

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:

- It is generally consistent with the relevant local, regional and State legislation and policies;

- It is not expected to result in any adverse environmental, social, economic and infrastructure impacts.

Based on the assessment outlined in this report, the proposal must be updated before consultation to include:

- an indicative project timeline for key LEP amendment milestones as per the DPE LEP Making Guideline.
- Details of the applicability of the CWO 2041 regional plan and demonstrate how it is consistent.

9 Recommendation

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

1. Prior to community consultation, the planning proposal is to be amended to address condition 1 which requires
 - the inclusion of an indicative project timeline for key plan making milestones as per the DPE LEP Making Guideline.
 - Details of how the Central West and Orana Regional Plan 2041 is applicable and demonstrate the proposal's consistency.
2. The planning proposal should be made available for community consultation for a minimum of 20 working days.
3. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.

Director's note

After considering the nature of the proposal (making a use permissible that would be permissible were it proposed as ancillary to a service station), and after discussion with the Assessment officer, the recommended Gateway conditions were modified as follows:

- Updating the planning proposal to refer to the CW&ORP 2041 is not considered necessary. This would leave only the updating of the planning proposal with the timetable and this is not considered warranted as the only amendment.
- Given no agency consultation is required and the planning proposal is ready for exhibition without amendment, 6 months will be ample time to finalise the amendment.



(12/01/2023)

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