



IRF23/3327

Gateway determination report – PP-2023-1363

Rezone from RE1 Public Recreation to R2 Low
Density Residential Zone at 26 Lysterfield Rd,
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
Planning Proposal
Report to Council dated 7 November 2023

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Orange
PPA	Orange City Council
NAME	Rezone from RE1 Public Recreation to R2 Low Density Zone
NUMBER	PP-2023-1363
LEP TO BE AMENDED	Orange Local Environmental Plan 2011
ADDRESS	26 Lysterfield Road, Orange
DESCRIPTION	Lot 76 DP 750401 (specifically future lot 15 and 16 approved in DA387/2021(1))
RECEIVED	16/11/2023
FILE NO.	IRF23/3327
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 planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Rezone surplus open space land to enable residential development in conjunction with an adjoining subdivision, consistent with a development consent on the subject land.
- Apply development controls that permit dwellings on 200m² lots, consistent with adjoining residential land.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Orange LEP 2011 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RE1 Public Recreation	R2 Low Density
Minimum lot size	No lot size	200m ²
Number of dwellings	0	9
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject land is located on the south-western edge of Orange and is approximately 3km from the Orange city centre (see Figure 1). It is located within an existing rural living area (see Figure 2).



Figure 1 Site context (Source: Central West and Orana Regional Plan 2041)



Figure 2 Site context existing environment (Source: Planning Proposal)

The subject site is located within the Southern Orange Urban Release Area (known as Shiralee) (see Figure 3). Further details are provided in section 1.7 of this report.



Source – Shiralee DCP

Figure 6 Structure Plan (site boundary shown dashed red)

Figure 3 Extract of Shiralee Structure Plan (Source: Planning Proposal)

The site consists of two parcels that total 3,091m².



Figure 4 Subject site development areas (Source: Planning Proposal)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the digital zone mapping and LSZ_008B Lot Size map, which are suitable for community consultation.

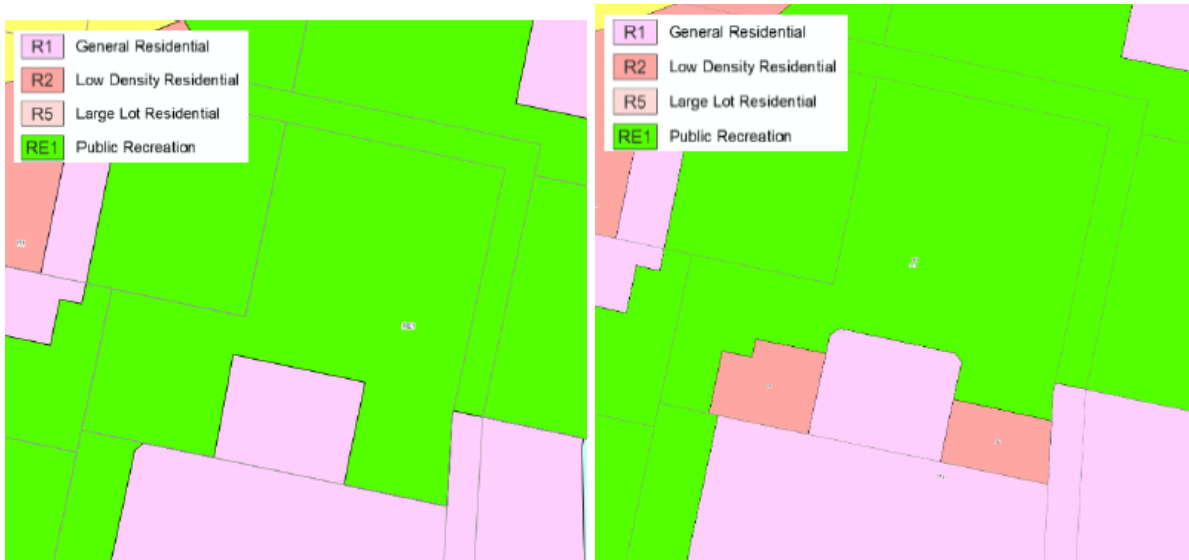


Figure 5 Current and proposed zoning maps



Figure 8 Current and proposed lot size map

1.6 Background

The subject land is located within the South Orange Urban Release Area, also known as the Shiralee development. A significant amount of open space is provided under the Shiralee Structure Plan and Shiralee Master Plan. The subject land was identified as required for a stormwater detention basin.

In 2019, Council completed an updated flood study and identified that the proposed number and location of stormwater detention basins could be reduced, therefore reducing the overall amount of open space required, including the subject land.

In September 2022, Council issued a Deferred Commencement Consent under DA 387/2021(1). The approval granted consent for the subdivision of the site to create 14 dwelling lots and 3 open space lots (including lots 15 & 16, the subject of this planning proposal) (see Figure 6). As part of the Voluntary Planning Agreement between Council and the subject land owner, one of the open space lots (Lot 17) was dedicated to Council and the remaining two lots (the subject land) would be investigated for residential development. Additional details can be found in the Background section of the planning proposal on pages 2-3 and page 15.

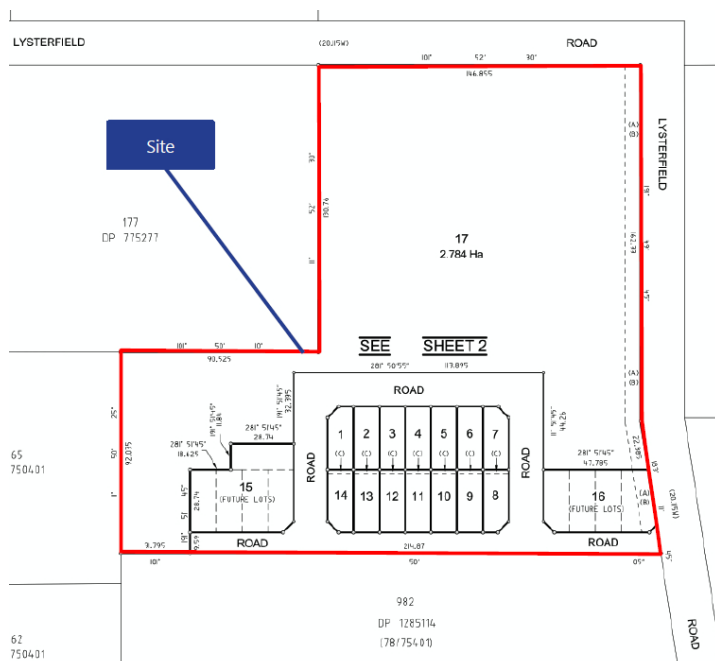


Figure 6 - Approved subdivision under DA 387/2021(1)

2 Need for the planning proposal

The planning proposal is the best means of achieving the desired outcome for the site – the reduction of excess strategic open space and the addition of a small amount of residential development adjoining an existing subdivision.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Central West and Orana Regional Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 6: Support connected and healthy communities	While the planning proposal did not identify this objective, it does relate to the provision of public open space and the importance of whether open space is needed. The proposal is consistent with the objective.
Objective 7: Plan for resilient places and communities	While the planning proposal did not identify this objective, it does apply as the subject land is affected by flooding and overland flow flooding. The proposal is consistent with the objective (see section 4 of this report for details).
Objective 11: Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities	The planning proposal is consistent with this objective including that it is consistent with a precinct-based master plan and integrates residential development with the broader regional city. It is also consistent with the Orange specific outcomes in the regional plan to strengthen the regional city.
Objective 13: Provide well located housing options to meet demand	The planning proposal is consistent with this objective including that it contributes to an adequate and timely supply of housing.
Objective 14: Plan for diverse, affordable, resilient and inclusive housing	The planning proposal is not inconsistent with this objective. While it does not specifically promote affordable housing, the wider Shiralee precinct will provide opportunities for a range of housing types to meet different needs in the community.
Objective 17: Coordinate smart and resilient utility infrastructure	The planning proposal is consistent with this objective including that it is contiguous with existing proposed residential development and will maximise the cost effective and efficient provision of infrastructure.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Orange Local Strategic Planning Statement (LSPS)	The planning proposal states it is consistent with the LSPS but does not provide details. The proposal is considered consistent with Council's strategic land use planning for the city.

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 Plan	Consistent	See Section 3.1 of this report for more details
1.4 Site Specific Provisions	Not Applicable	While the planning proposal identifies the proposal is consistent with the direction, the direction does not apply as it does not “allow a particular development to be carried out”.
3.1 Conservation Zones	Consistent	The proposal does not affect environmentally sensitive areas.
3.2 Heritage Conservation	Consistent	The proposal does not affect heritage.
4.1 Flooding	Inconsistent	<p>The proposal is to rezone from recreation to residential uses, which is not consistent with the direction. It is also inconsistent as it will permit land uses that should not be applied to the flood planning area and the area within the PMF. The PP can be inconsistent if it can satisfy the Secretary of certain consistencies with other documents or the relevant planning authority (in this case, Council) considers the provisions to be of minor significance.</p> <p>While Council has not specifically stated it believes the provisions are of minor significance, its assessment has considered flooding in detail and Council is satisfied the proposed development remediations would address potential flooding on the site. It also believes these matters can be adequately addressed at the development stage.</p> <p>Given these considerations, the proposal is considered justified in its inconsistency with the direction.</p>
4.4 Remediation of Contaminated Land	Consistent	Council's assessment of the proposal noted that a preliminary site investigation was undertaken for DA 387/2021(1) (which includes the subject land) and Council is confident that based on its findings, the subject land is suitable for residential development.
5.1 Integrating Land Use and Transport	Consistent	The proposal is considered consistent with the principles of the guidelines referenced in the direction as it will be integrated into a master planned urban release area that is proposed to be strongly connected into the residential areas of Orange City.
5.2 Reserving Land for Public Purposes	Consistent	As the relevant planning authority, Council has determined that the subject land is no longer required for public open space and therefore the proposal is consistent with the direction.
6.1 Residential Zones	Consistent	The proposal is considered to meet the requirements of the direction including housing choice, efficient use of infrastructure, reducing development on the urban fringe and ability for development to be serviced.

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 (Resilience & Hazards) 2021	Consideration of the likely contamination and the suitability of the site for development.	Yes	A preliminary site investigation has been undertaken for the site and has found the site is suitable for residential development.
SEPP (Biodiversity and Conservation) 2021	Consistency with the SEPP in relation to the extent of vegetation affected by the proposal	Yes	The development of the subject land is generally in accordance with the relevant structure plan and meets the requirements of the SEPP.
SEPP (Transport and Infrastructure) 2021	Various requirements for residential development	Yes	The proposal fronts existing approved roads and will adjoin a strategically planned urban release area. It can be appropriately serviced and connect to proposed urban infrastructure.

4 Site-specific assessment

4.1 Environmental

There is no additional environment impact from the proposal to those discussed elsewhere in this report. The subject land is generally clear of vegetation due to historical land clearing.

4.2 Social and economic

There are no additional social or economic impact from the proposal to those discussed elsewhere in this report.

4.3 Infrastructure

The subject land can be adequately serviced with appropriate urban infrastructure and services. It is consistent with and adjoins strategically identified residential land.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination which requires a minimum exhibition period of 20 working days, consistent with the LEP Plan Making Guidelines (August 2023).

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

There are no agencies that are required to be consulted based on this assessment.

6 Timeframe

The planning proposal identifies an approximate 6 month timeframe to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 30 September 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

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

As the site/planning proposal is standard the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Recommendation

It is recommended the delegate of the Secretary agree that any inconsistencies with section 9.1 Directions 4.1 Flooding are justified.

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway determination authorise council to be the local plan-making authority and that an LEP completion date of 30 September 2024 be included on the Gateway.



21/12/2023

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22/12/2023

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