



IRF23/1589

Gateway determination report – PP-2023-45

Sweetheart Drive Rezoning

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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 (authorised by A. Daintith, Version 4.0, January 2023)
Council meeting report – dated 2 May 2023
Council meeting minutes – dated 9 May 2023, item no. 23/149

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Orange
PPA	Orange Council
NAME	Sweetheart Drive rezoning
NUMBER	PP-2023-45
LEP TO BE AMENDED	Orange Local Environmental Plan (LEP) 2011
ADDRESS	Sweetheart Drive Orange
DESCRIPTION	Lot 90 DP 1284877
RECEIVED	21/06/2023
FILE NO.	IRF23/1589
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:

- Amend the Orange LEP 2011 to enable part of the subject land be rezoned from RE1 Public Recreation to R1 General Residential;
- Amend the Orange LEP 2011 Minimum Lot Size (MLS) Map and include the part of the land rezoned to R1 with an MLS of 700m² consistent with the surrounding 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
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Zone	RE1 Public Recreation	R1 General Residential
Minimum lot size	N/A	700 m ²
Number of residential lots	0	Maximum of 8 lots

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The proposed amendments are considered an acceptable means of achieving the intended outcomes.

1.4 Site description and surrounding area

The site is located on the southern fringe of the Orange township, approximately 5 kilometres south of the town centre (refer to Figure 1 below). The site is currently zoned RE1 Public Recreation, and it is within the broader Shiralee Estate.

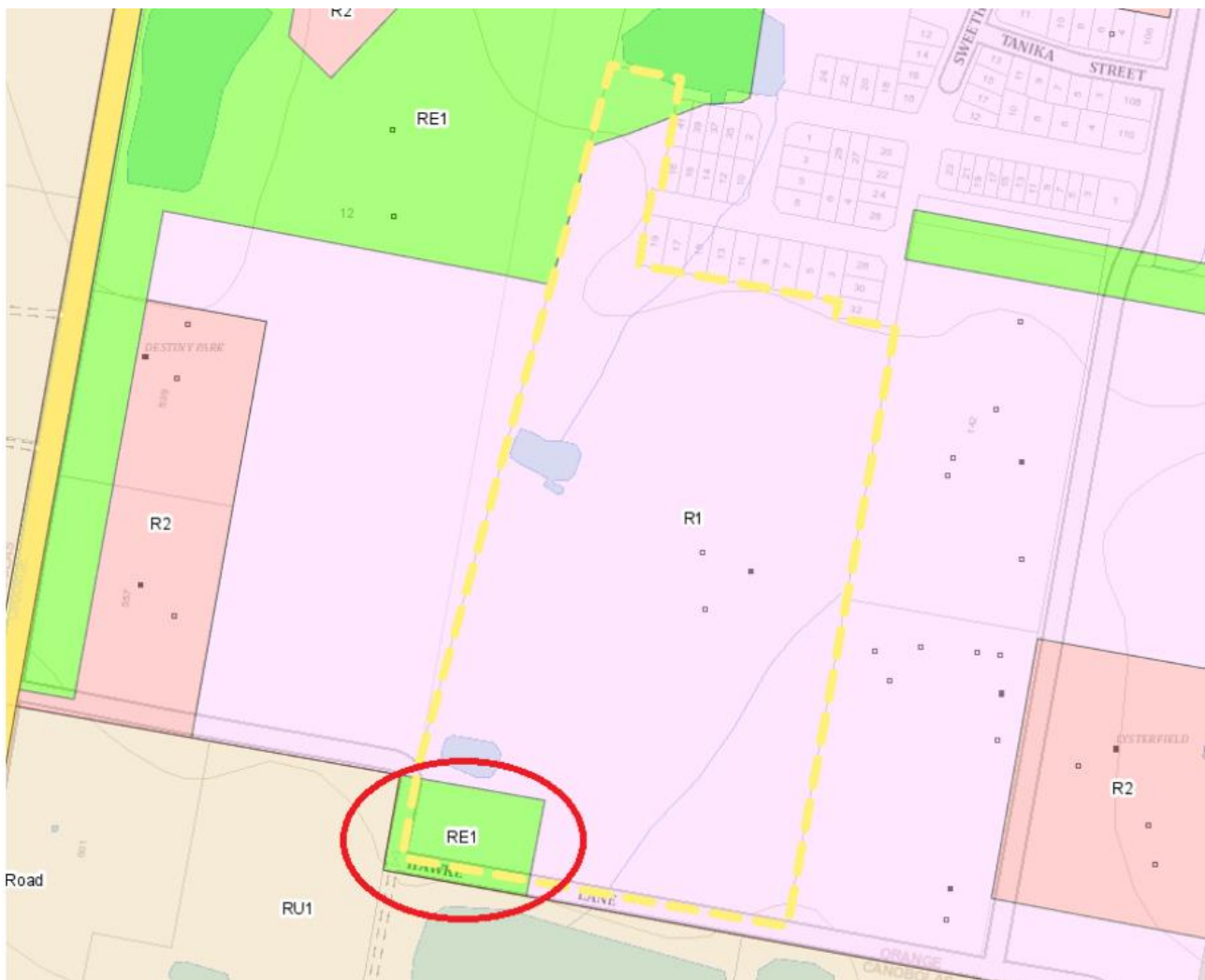


Figure 1 Subject site (source: Planning Proposal – Rezoning & MLS Changes, Jan 2023)

The site - Hawke Lane Park was originally identified for open space within the Shiralee DCP masterplan. This was primarily a response to safety issues arising from the presence of a large

dam on the southern side of Hawke Lane. Council has subsequently acquired the land containing the large dam and drained it to remove the risk (see Figure 2 below).



Figure 2 Aerial photo of the site (source: SIX Maps)

With the removal of the dam break flood risk, Council considers that the land is more suitable for residential lots within the estate, and its limited value for recreation can be met given the existing recreation area provided in the vicinity.

1.5 Mapping

The planning proposal includes maps that show the subject site, but it does not include maps showing the proposed amendments to the Orange LEP 2011 maps. To address this, prior to community consultation, the planning proposal is to be updated to include additional mapping that clearly shows the proposed changes to the land zoning and lot size maps. The existing land zoning map is provided in Figure 3.

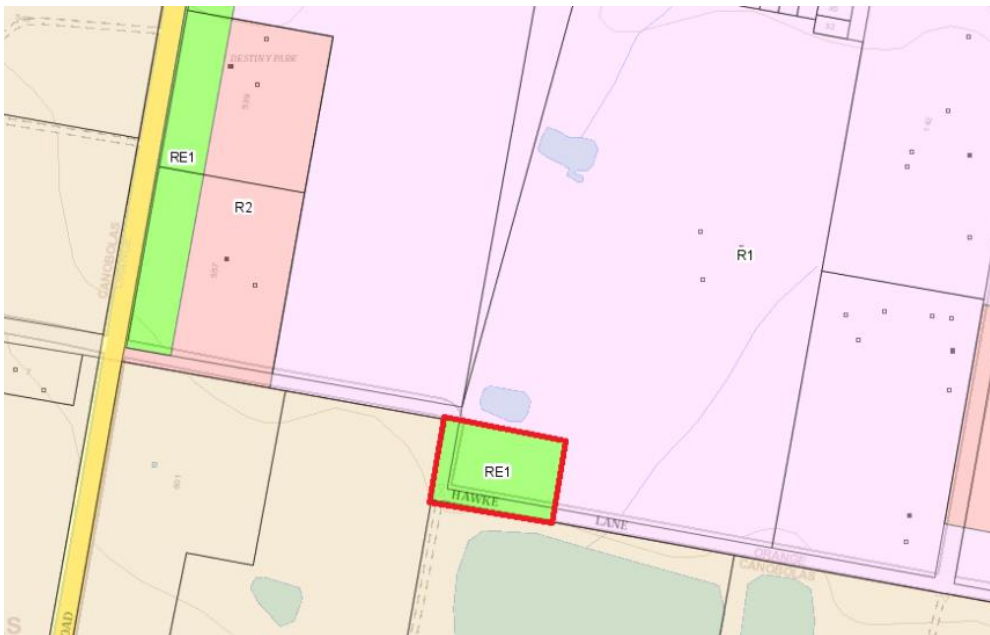


Figure 3 Current zoning map (source: Planning Proposal – Rezoning & MLS Changes, Jan 2023)

The existing lot size map is provided in Figure 4.

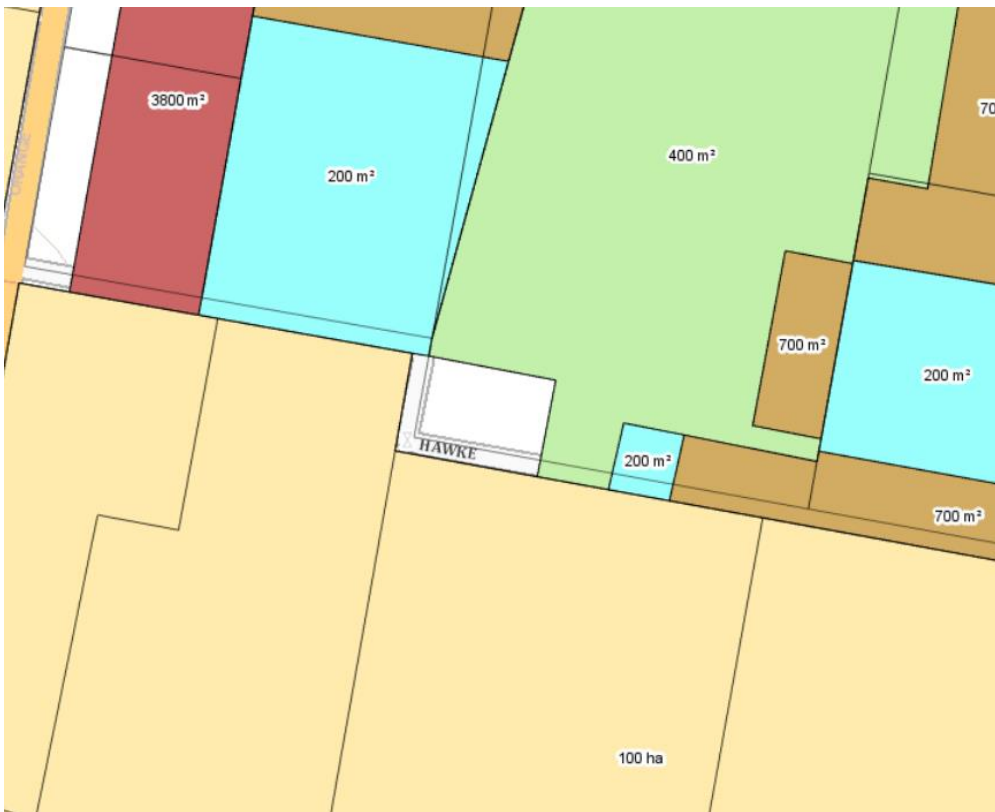


Figure 4 Current MLS map (source: Planning Proposal – Rezoning & MLS Changes, Jan 2023)

1.6 Background

The planning proposal forms a part of a larger estate – Shiralee Estate which has been identified both in the Orange LSPS and Local Housing Strategy. It is noted in the Council report that the land was zoned RE1 to primarily respond to safety issues of the large dam on the southern side of Hawke Lane. As the former dam is now drained and in public (Council) ownership it is considered that the underlying potential of the land for housing represents a better outcome that will make a modest contribution to housing availability. It is recommended that the planning proposal be amended to include discussion on the history of the land and the reasons why a public recreation use is no longer appropriate.

There were concerns with potential flooding and pre-gateway consultation with BCD was undertaken. The comments received from BCD confirms that the risk of a dam failure no longer exist with the removal of the dam. The wider Shiralee precinct will have enough capacity to safely manage the flood water and the proposal is technically feasible.

The planning proposal will need to be referred to BCD and s9.1 Direction 4.1 Flooding addressed.

2 Need for the planning proposal

The proposed rezoning from RE1 Public Recreation to R1 General Residential is neither the result of a strategy nor a study.

This amendment is a proponent led application which is supported by Council as the proposed rezoning to R1 reflects the intended use of the land.

The planning proposal includes discussion on an alternative planning pathway which is a Schedule 1 amendment and considers the proposed LEP is the most appropriate pathway to achieve the intended outcome of allowing further residential development.

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 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 13: Provide well located housing options to meet demand	The planning proposal is consistent with the objective by providing additional housing to meet demand, and it will contribute to the broader Shiralee estate.

3.2 Local

The planning proposal states that it is consistent with the Local Strategic Planning Statement for Orange, however, it does not address other relevant strategies such as the endorsed Orange Local Housing Strategy or the Shiralee Development Control Plan (DCP) which is applicable to the subject site.

The proposal is consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Orange Local Strategic Planning Statement 2020	The planning proposal is consistent with the themes and planning priorities contained within the LSPS, specifically Planning Priorities 2: Support the delivery of new homes in residential release areas, including North Orange and Shiralee, and increase the range of housing options in existing urban areas and Planning Priorities 4: Provide diverse housing choices and opportunities to meet changing demographics and population needs, with housing growth in the right locations.
Orange Local Housing Strategy 2022	The planning proposal is generally consistent with the housing priorities identified in the LHS, particularly priority 2 - Increase housing supply diversity and choice to meet population's needs.

3.3 Section 9.1 Ministerial Directions

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

Table 6 9.1 Ministerial Direction assessment

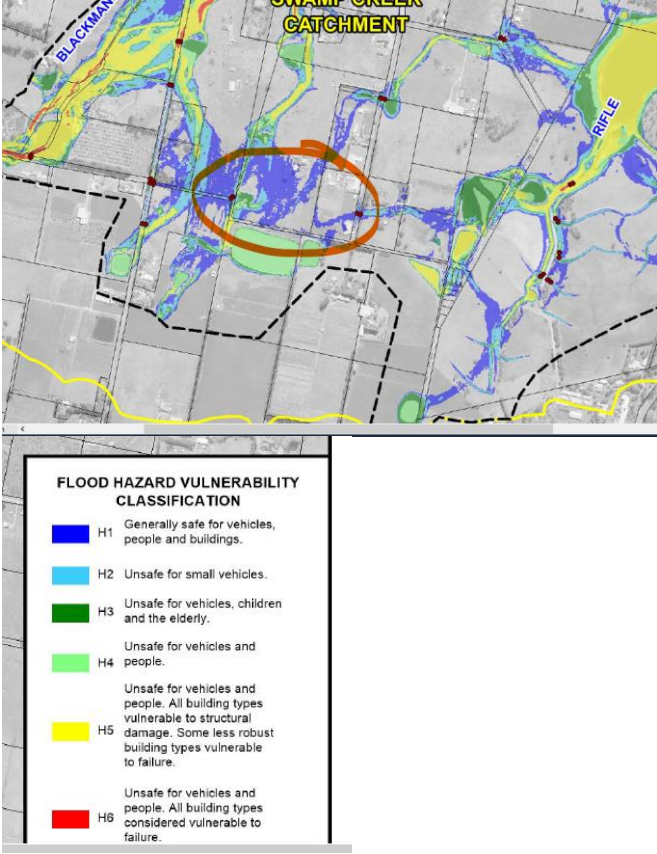
Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The planning proposal has demonstrated consistency with the Central West and Orana Regional Plan 2041 (refer to section 3.1 above).
4.1 Flooding	No	<p>The subject site is classified as a mix of H1-H4 flood hazard vulnerability classification in Council’s recent flood study (see Figure 5 below).</p>  <p>The map displays a flood hazard vulnerability classification for a specific area. It features several colored zones: blue (H1), light blue (H2), green (H3), light green (H4), yellow (H5), and red (H6). A dashed line outlines a specific area of interest, and a red circle highlights a particular site within this area. The legend, titled 'FLOOD HAZARD VULNERABILITY CLASSIFICATION', provides the following details:</p> <ul style="list-style-type: none">H1 (Blue): Generally safe for vehicles, people and buildings.H2 (Light Blue): Unsafe for small vehicles.H3 (Green): Unsafe for vehicles, children and the elderly.H4 (Light Green): Unsafe for vehicles and people.H5 (Yellow): Unsafe for vehicles and people. All building types vulnerable to structural damage. Some less robust building types vulnerable to failure.H6 (Red): Unsafe for vehicles and people. All building types considered vulnerable to failure.

Figure 5: Flood hazard vulnerability classification

The planning proposal is considered inconsistent with this direction and further justification is required to address the potential flood risk. PP to be revised to provide further justification and consultation with BCD will be conditioned accordingly.

4.4 Remediation of Contaminated Land	Yes	The site is not identified as potential contaminated land. However, the preliminary site investigation has indicated potential contaminants on the site. It has been noted in the letter to Council that Council is to be satisfied that the land is suitable for further subdivision and residential development.
5.2 Reserving Land for Public Purposes	Yes	The planning proposal does not include land that is publicly owned or remove public reserve status. No further work is required in relation to this Direction.
6.1 Residential Zones	Yes	The planning proposal intends to change the zoning from RE1 Public Recreation to R1 General Residential and enable further residential development

3.4 State environmental planning policies (SEPPs)

The planning proposal is generally consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

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

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Flood prone land	The site is mapped as a mixture of H1-H4 on Council's flood study mapping. There is potential for further intensification of the land proposed to be rezoned to R1 General Residential. It is recommended that the planning proposal be referred the department's Biodiversity, Conservation Science Division (BCD) in relation to flooding.
Groundwater Vulnerability	The site has been mapped as "Groundwater Vulnerable", and any impact will be assessed at the DA stage.

4.2 Social and economic

There is community benefit to the proposal as it will provide additional residential land to address the housing shortage. There is minimal impact on the social and economic aspects.

4.3 Infrastructure

The planning proposal acknowledges there is adequate public infrastructure existing to support the proposed amendment. This is sufficient given the proposal seems to permit a maximum of 8 additional dwellings. There will be no changes to the existing infrastructure.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days.

The exhibition period proposed is considered appropriate, and forms to the conditions of the Gateway determination.

The planning proposal is to be updated to include a detailed project timeline.

5.2 Agencies

It is recommended the DPE Biodiversity, Conservation Science Division (BCD) be consulted on the planning proposal in relation to flooding and given 21 days to comment.

6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of 225 days to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

As the site/planning proposal is minor impact 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:

- The proposal is not inconsistent with the Central West and Orana Regional Plan 2041;
- The proposal implements the actions of the Orange Local Housing Strategy 2022;
- The proposal is not inconsistent with the Orange Local Strategic Planning Statement.

As discussed in the previous sections 4 and 5, the proposal should be updated to:

- Discuss the relevant section of the proposal in relation to the Local Housing Strategy;
- Discuss the history of the site being zoned RE1 and the intended use no longer required;
- Provide a proposed Project Timeline to correspond to the timeframe of the Gateway determination;
- Include current zone and amended zone maps to help the community identify and understand the proposed rezoning area; and
- Address flooding issues correctly under discuss Direction 4.1 Flooding of Section 9.1 Ministerial Direction.

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:
 - Incorporate all the maps for the site as part of the proposed amendment including current and proposed land zoning maps and also current and proposed minimum lot size maps,
 - Provide history of the land being zoned RE1 and how the intended use as public recreation is no longer required,
 - Address flooding issues correctly under discuss Direction 4.1 Flooding of Section 9.1 Ministerial Direction.
 - Provide a Project Timeframe to reflect the Gateway determination of the proposal and subsequent milestones for finalisation in 225 days.
2. Consultation is required with the Department of Planning and Environment (Biodiversity, Conservation and Science Division).
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
4. The amendment to the LEP is to be completed on or before 15 July 2024.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



21/9/2023

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21/9/2023

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