



Plan finalisation report – PP-2023-934

277 Cargo Road, Orange. Rezone land from part C3, part RU1 to part R2 Low Density Residential, and part R1 General Residential, reduce the Minimum Lot Size from 100ha to part 1500m2 and part nil Minimum Lot Size. Include the site on the Urban Release Area map and remove area within Lot A and part of adjoining Lot 4 from Terrestrial Biodiversity map.

May 2025



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

Title: Plan finalisation report – PP-2023-934

Subtitle: 277 Cargo Road, Orange. Rezone land from part C3, part RU1 to part R2 Low Density Residential, and part R1 General Residential, reduce the Minimum Lot Size from 100ha to part 1500m2 and part nil Minimum Lot Size. Include the site on the Urban Release Area map and remove area within Lot A and part of adjoining Lot 4 from Terrestrial Biodiversity map.

© State of New South Wales through Department of Planning, Housing and Infrastructure 2025. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing May 2025 and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

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

Contents

1	Introduction	2
1.1	Overview	2
1.1.1	Name of draft LEP	2
1.1.2	Site description	2
1.1.3	Purpose of plan.....	4
1.1.4	State electorate and local member.....	6
1.1.5	Gateway determination and alterations	6
2	Public exhibition and post-exhibition changes	6
2.1	Submissions during exhibition.....	7
2.1.1	Submissions objecting to and/or raising issues about the proposal	7
2.2	Advice from agencies	7
2.3	Post-exhibition changes.....	8
3	Department's assessment.....	9
3.1	Detailed assessment	10
3.1.1	Regional Plan	10
3.1.2	Local.....	10
3.1.3	Section 9.1 Ministerial Directions	11
3.1.4	Site-specific	11
3.1.5	State environmental planning policies (SEPPs)	11
3.1.6	Urban release area	11
4	Post-assessment consultation.....	11
5	Recommendation.....	12
	Attachments	13

1 Introduction

1.1 Overview

1.1.1 Name of draft LEP

Orange Local Environmental Plan 2011 (Amendment No. 11).

The draft local environmental plan (LEP) makes several changes to the zoning, minimum lot size, and mapping provisions of the Orange LEP 2011.

1.1.2 Site description

Table 1 Site description

Site Description	The planning proposal (Attachment A1) applies to land at 277 Cargo Road, Orange (the site), and is legally described as Lot A DP408148 and part of Lot 4 DP1099080
Type	Site rezoning
Council	Orange City Council
LGA	Orange

The site is located ~4km west of Orange's town centre and adjoins Cargo Road (classified road) to the north, R2 Low Density Residential land (3 houses) to the east, and relatively clear C3 zoned land to the south and west. The C3 Environmental Management Zone covers most of the site, with approximately 1500m² in the northern area of Lot A zoned RU1 Primary Production. Lot A contains two dwellings in the northern area of the lot and the land has historically been used for agriculture. The site contains a small section (~1ha) of Lot 4 DP1099080 covering the extent of a pine plantation mapped as terrestrial biodiversity area.

See Figure 1 and 2 showing the site. The land is mapped as:

- Drinking Water Catchment (see Figure 3)
- Natural Resource – Groundwater Vulnerability (entire lot)
- Containing an area of 'high sensitivity' mapped biodiversity (see Figure 4)
- BSAL area (all land except ~350m² in top north-eastern corner).

Lot 4 is bushfire prone land. Lot A is not mapped as hazard prone (flooding, bushfire, land slip). The site altogether does not contain any identified heritage items and is capable of being connected to reticulated services.

The site forms part of the Witton Place Candidate Area nominated in the Orange Local Housing Strategy (OLHS) (refer Figure 5). As noted in the revised Planning Proposal (refer **Attachment A1**), this area is identified within the OLHS for short term development (0-5 years) as low density residential and large lot residential, subject to a site-specific structure plan.



Figure 1 Subject site (source: NSW Planning Portal)

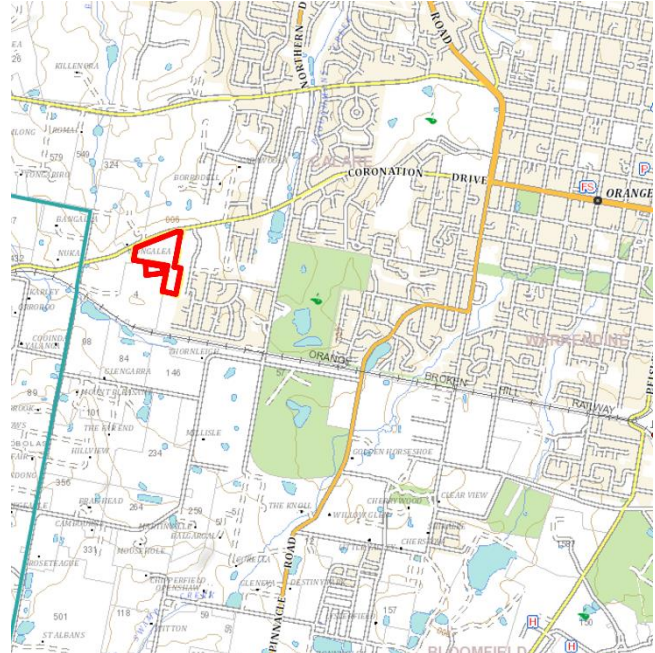


Figure 2 Site context (source: NSW Planning Portal)

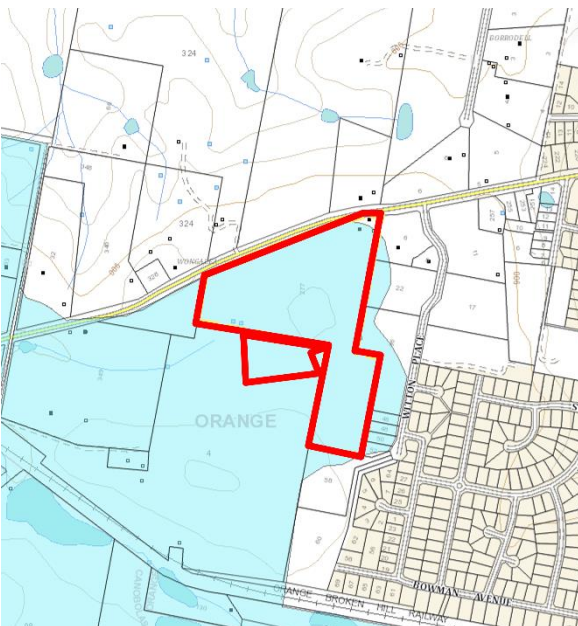


Figure 3 Drinking Water Catchment mapped area (source: NSW Planning Portal)

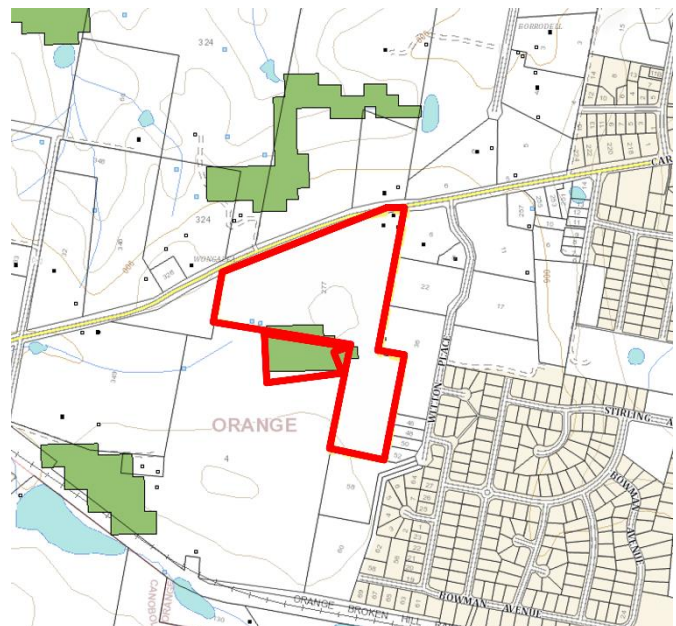


Figure 4 Terrestrial Biodiversity mapped area (source: NSW Planning Portal)

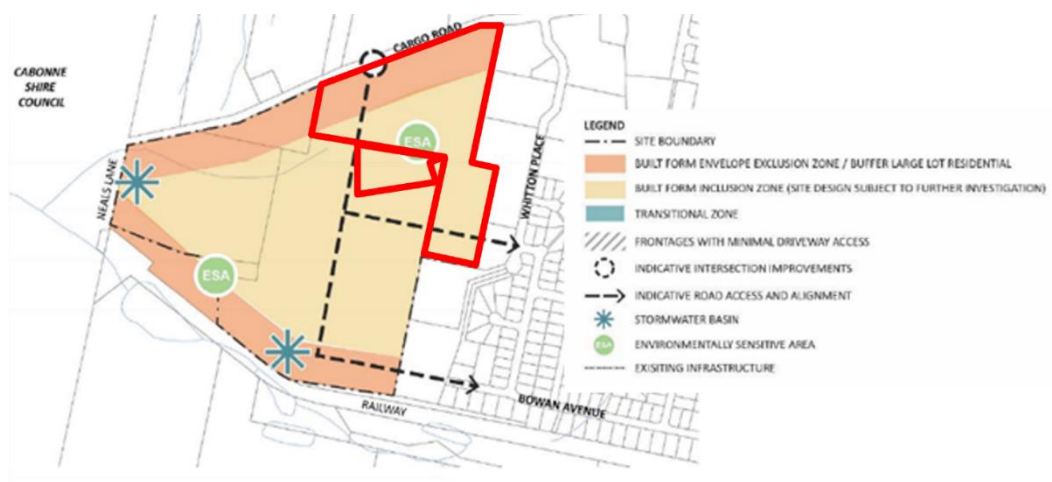


Figure 5 Subject site within Witton Place Candidate Area (source: OLHS)

1.1.3 Purpose of plan

The planning proposal seeks to amend the Orange LEP 2011 to enable development of the site for residential housing and to streamline efficient housing delivery.

Table 2 and Figures 6-9 (refer below) outline the current and proposed controls for the LEP.

The justification for the planning proposal has been outlined in detail in the Gateway determination and alteration reports (refer **Attachments B2 and B5**).

Table 2 Current and proposed controls

Control	Current	Proposed
Zone	Part C3 Environmental Management, part RU1 Primary Production	Part R2 Low Density Residential, and part R1 General Residential (see Figure 6)
Minimum lot size (MLS)	100 hectares	Part 1500m ² and nil MLS (see Figure 7)
Urban Release Area (URA)	Not currently mapped as URA	Map area as URA (see Figure 8)
Drinking Water Catchment	Site mapped as Drinking Water Catchment.	No change to current mapping sought - site will continue to be mapped as Drinking Water Catchment.
Terrestrial Biodiversity	Site mapped as containing terrestrial biodiversity	Remove area within Lot A and part of adjoining Lot 4 from Terrestrial Biodiversity mapping (see Figure 9).
Number of dwellings	2 dwellings	Approximate yield of ~102 lots
Number of jobs	N/A	Unknown

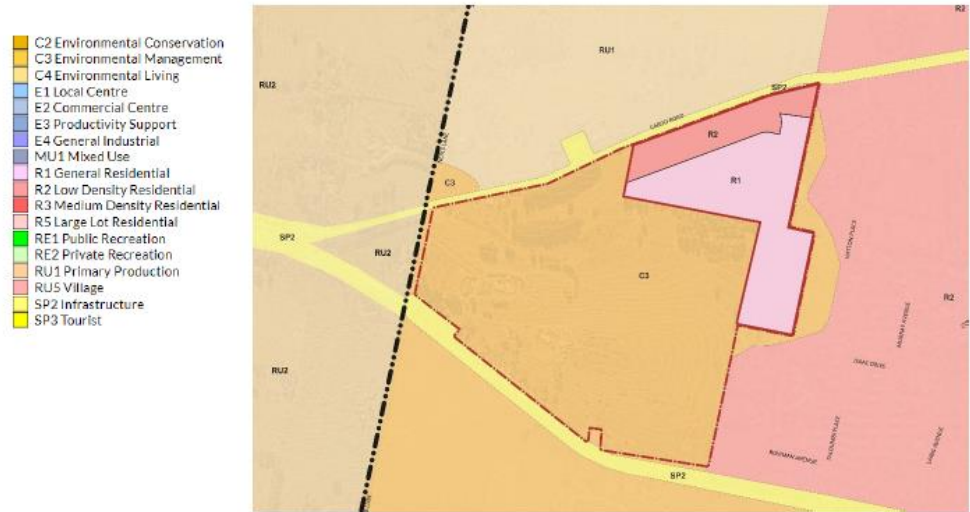


Figure 6 Proposed zoning under planning proposal

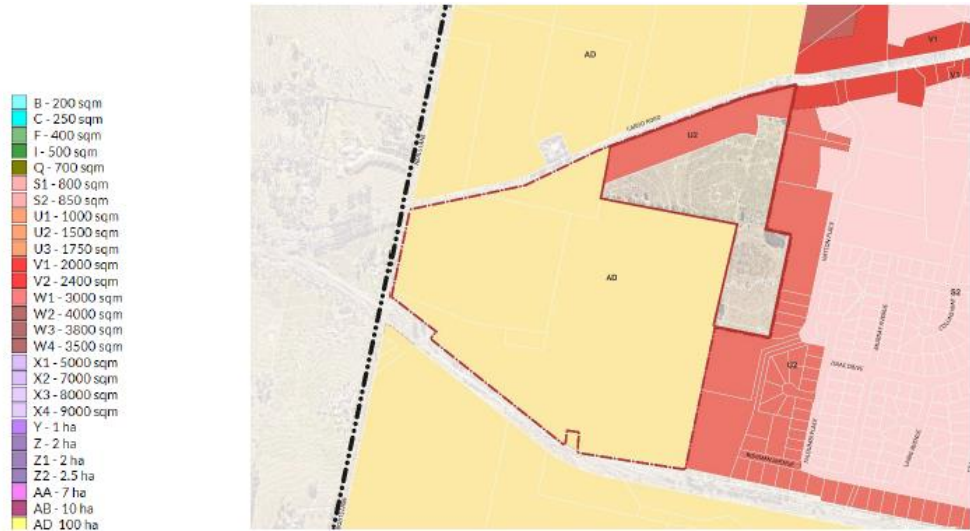


Figure 7 Proposed MLS under planning proposal

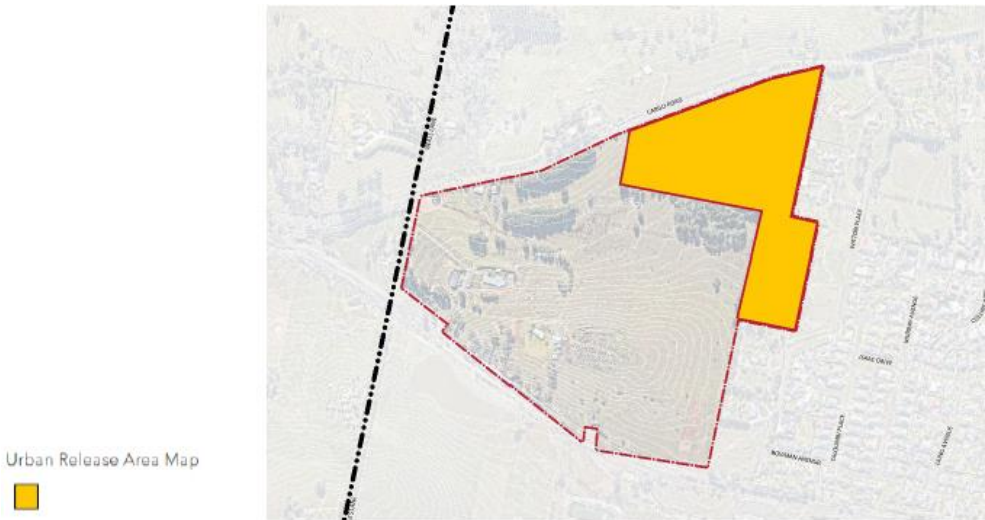


Figure 8 Proposed URA mapping (not mapped currently)



Figure 9 Proposed biodiversity mapping under planning proposal

1.1.4 State electorate and local member

The site falls within the Orange state electorate. Mr Philip Donato MP is the State Member. The site falls within the Calare federal electorate. The Hon Andrew Gee MP is the Federal Member. To the team's knowledge, neither MP has made any written representations regarding the proposal. There are no donations or gifts to disclose, and a political donation disclosure is not required. There have been no meetings or communications with registered lobbyists with respect to this proposal.

1.1.5 Gateway determination and alterations

The Gateway determination issued on 1/08/2024 (refer **Attachment B1**) determined that the proposal should proceed subject to conditions. Council has satisfied all of the Gateway determination conditions.

The Gateway determination was altered on 6/12/2024 to change the description of the planning proposal and insert new conditions 1 (c) and (d) (refer **Attachment B4**). Council has satisfied all of the Gateway determination (as altered) conditions, including a condition to remove the amendment to implement a buffer area.

In accordance with the Gateway determination (as altered) the proposal was due to be finalised on 30/04/2025. The Department received the request by Council to finalise the planning proposal prior to the due date. The Department is now satisfied that Council has met the conditions of the Gateway determination and the planning proposal is adequate for finalisation.

2 Public exhibition and post-exhibition changes

In accordance with the Gateway determination (as altered), the proposal was publicly exhibited by Council from 13/01/2025 to 11/02/2025, as required by section 29 of the *Local Government Act 1993*.

One community submission was received. No public meeting was held following public exhibition.

2.1 Submissions during exhibition

2.1.1 Submissions objecting to and/or raising issues about the proposal

The single community submission raised 3 issues, namely the staging of the site's proposed rezoning, bushfire planning, and servicing. The Department considers that Council has adequately addressed these matters as part of its Post-Exhibition Report (refer **Attachment A2**).

2.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 4 who have provided the following feedback.

Table 3 Advice from public authorities

Agency	Advice raised	Council response
NSW Rural Fire Service (RFS)	RFS (refer Attachment C1) raised no objections to the proposal, however provided comments in relation to bushfire hazard assessment and requirements for any future referrals or development applications (DAs) to demonstrate compliance with <i>Planning for Bush Fire Protection 2019</i> .	Council is satisfied that RFS's comments can be suitably addressed through any future DAs for the site and note that any subdivision for the purpose of residential development will likely be referred through to RFS for concurrence under the <i>Rural Fires Act 1997</i> . Council also notes that the mapping of the site as an URA will ensure that all requirements will be met at the subdivision stage.
NSW Department of Primary Industries and Regional Development, Agriculture and Biosecurity (DPIRD)	<p>DPIRD (refer Attachment C2) did not support the planning proposal, both in its original and amended forms, due to its perceived lack of strategic justification against an endorsed strategy and the use of highly productive agricultural land for housing. DPIRD considered that the planning proposal would create further fragmentation of existing agricultural land, including land identified as Biophysical Strategic Agricultural Land (BSAL) and forming part of the draft State Significant Agricultural Land (SSAL).</p> <p>DPIRD also considered that the proposal is inconsistent with relevant directives of the Central West and Orana Regional Plan 2041 (CWORP), Council's Local Strategic Planning Statement (LSPS), and the OLHS in relation to land use conflicts.</p> <p>DPIRD noted that although the site is</p>	<p>Council notes DPIRD's concerns, however, consider that the proposal has adequately addressed land use conflict. Council notes that the site's nomination for residential development in the OLHS was due to its fragmented ownership pattern and inherent site constraints which would limit any future residential development further west or south of the immediate site. Council's own analysis indicates that the site would be unlikely in sustaining commercial agricultural operations given these site constraints, and that the Witton Place Candidate Area represents an isolated, relatively constrained site for agricultural uses.</p> <p>Council also notes that review of constraints associated with Orange's potential future residential development sites (including environmental considerations, land banking, and landholder willingness) informed the nomination of the subject site for residential development in the OLHS.</p>

	<p>nominated in the OLHS, this strategy is not yet endorsed by the Department and other greenfield and alternative sites for residential development exist in the Orange LGA and on the city's outskirts.</p>	<p>The OLHS supplants the Orange Sustainable Settlement Strategy (2010), Council's review of which focused on reducing the amount of highly productive agricultural land nominated for residential development.</p> <p>Council notes that it has sought to have the OLHS endorsed by the Department, however have received consistent advice that the Department are no longer in the position to endorse local strategies. Noting the Department's assessment of the proposal against the relevant Section 9.1 Directions as part of the Gateway Determination, Council consider that the planning proposal has sufficient strategic and site-specific merit.</p> <p>Council, on 8/05/2025, requested DPHI endorse the OLHS. This request is currently under assessment.</p>
NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)	<p>DCCEEW (refer Attachment C3) raised no objections to the proposal, however made recommendations including that additional biodiversity assessment is undertaken prior to removal of the Terrestrial Biodiversity Map from the site and accurate quantification of the site's area of native vegetation to ascertain if the activity would trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared.</p>	<p>Council is satisfied regarding the condition of the biodiversity within the site based on the Preliminary Flora and Fauna Assessment and further site investigation. Council is satisfied that DCCEEW's recommendations can be adequately addressed through the preparation of a site-specific Development Control Plan and future DAs, the latter of which would likely trigger the BOS and hence preparation of a BDAR.</p>
Transport for NSW (TfNSW)	<p>TfNSW (refer Attachment C4) raised no objections to the proposal subject to various traffic matters being addressed through any future DAs.</p>	<p>Noted.</p>

The Department considers Council has adequately addressed matters raised in submissions from public authorities. More detailed consideration of DPIRD's submission and Council's response is provided at Section 0 below.

2.3 Post-exhibition changes

No changes were made to the planning proposal post-exhibition.

3 Department's assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment B1**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment B2**), the planning proposal submitted to the Department for finalisation:

- Remains either consistent or justifiably inconsistent with the regional plans relating to the site.
- Remains consistent with the Council's Local Strategic Planning Statement.
- Remains either consistent or justifiably inconsistent with all relevant Section 9.1 Directions.
- Remains consistent with all relevant SEPPs.

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 3.1 below.

Table 4 Summary of strategic assessment

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
Local Housing Strategy	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1

Table 5 Summary of site-specific assessment

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
Environmental impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 3.1

3.1 Detailed assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

3.1.1 Regional Plan

The Gateway determination and alteration reports identified that the proposal was partly inconsistent with Objective 11 ("Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities") and inconsistent with Objective 19 of the CWORP ("Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities"). The Gateway determination and alteration reports found that the proposal was justifiably inconsistent with these objectives.

As part of its Gateway alteration request, the revised planning proposal provided a response to the site's BSAL characterisation. This assessment identified that:

- The site and the Witton Place Candidate Area sit within a narrow band of mapped BSAL.
- The focus on protecting BSAL land within Orange is concentrated to the south of the LGA where there are numerous primary producers, rather than the site's location.
- The five lots currently contained within the Witton Place Candidate Area are fragmented in ownership and are not considered viable for viable agricultural enterprise.
- The site and broader Witton Place Candidate Area's viability for agricultural enterprise are also constrained by their isolation by the rail line (to the immediate south), the surrounding road network, and existing residential development to the immediate east.
- The site is immediately adjacent to the urban edge of Orange. Hence there is limited potential for the site to consolidate with adjacent farmland to enhance its viability and future land use conflicts would also be likely to occur if intensive agriculture were pursued on the site.

The Department is satisfied with Council's response to DPIRD's January 2025 submission on the proposal. Consistent with its assessment undertaken at the Gateway determination stage, the Department agrees with Council's analysis of the site's constraints and considers that in this instance the loss of rural land is of minor significance, given the reasons listed above and its identification in the OLHS for residential supply as part of the Witton Place Candidate Area.

The Department is satisfied that the proposal's inconsistency with Objectives 11 and 19 of the CWORP remains justified, and that no revisions are required to the planning proposal.

3.1.2 Local

The Gateway determination and alteration reports identified that the proposal was consistent with the Orange LSPS and OLHS. The Department is satisfied with Council's response to DPIRD's January 2025 submission regarding the proposal's consistency with these local endorsed documents. The OLHS identifies numerous further studies and assessments required to support a proposal lodged for the site, and all studies and assessments have been provided as part of the original and amended proposal and have been endorsed by Orange City Council, including the assessment of BSAL characterisation as noted above at section 3.1.1.

The Department notes that the OLHS has been endorsed by Council as its local housing strategy and is satisfied that the proposal remains consistent with both the Orange LSPS and OLHS, and that no revisions are required to the planning proposal. The Department is in discussions with Council regarding Departmental endorsement of the OLHS.

3.1.3 Section 9.1 Ministerial Directions

The Gateway determination report identified that the proposal was inconsistent with the relevant section 9.1 Directions 3.1 Conservation Zones, 9.1 Rural Zones, and 9.2 Rural Lands. The Gateway determination report found that the proposal was justifiably inconsistent as a matter of minor significance, given:

- the proponent has provided site specific studies to support the outcomes of the proposal in consideration of Direction 3.1.
- the proposal seeks to rezone an area of RU1 zoned land in accordance with a locally endorsed strategy, and this land does not currently support agricultural activity.
- the proposal has addressed the matters raised in Direction 9.2(1).

The Gateway alteration report also identified that the proposal was inconsistent with Direction 1.4 Site Specific provisions, due to the proposed introduction of a Buffer Area Map to the site. However, this has since been resolved by removal of the Buffer Area Map from the proposal prior to agency consultation and public exhibition.

The Department is satisfied that the proposal's inconsistency with section 9.1 Directions 3.1 Conservation Zones, 9.1 Rural Zones, and 9.2 Rural Lands remains justified, and that no revisions are required to the planning proposal.

3.1.4 Site-specific

Consistent with the Gateway determination and alteration reports, the Department considers that the proposal does not pose significant environmental impact, will produce a positive impact by expanding available housing in Orange, and impacts associated with visual landscape change and traffic increase are not considered significant. The Department is satisfied with Council's response to DCCEE's January 2025 submission and agrees that DCCEE's recommendations can be adequately addressed through the preparation of a site-specific Development Control Plan and at a DA stage. The Department is satisfied the proposal demonstrates site-specific merit and that no revisions are required to the planning proposal.

3.1.5 State environmental planning policies (SEPPs)

Consistent with the Gateway determination and alteration reports, the Department is satisfied that the proposal is consistent with the aims of SEPP (Resilience and Hazards) 2021 - Chapter 4 Remediation of land. Other SEPPs in force are either not triggered for application at planning proposal stage, relate to development assessment stage, or relate to specific application areas outside of the subject land.

3.1.6 Urban release area

Consistent with the Gateway determination and alteration reports, the Department is satisfied with the proposed identification of the site as a URA, in order to trigger the requirements of Part 6 of the Orange LEP 2011 in relation to a site-specific Development Control Plan and for the purpose of mapping the site as a Bush Fire Planning – Urban Release Area. As noted at Table 3 above, neither TfNSW nor RFS raised any objections to this aspect of the proposal during consultation.

4 Post-assessment consultation

The Department consulted with the following stakeholders after the assessment.

Table 6 Consultation following the Department's assessment

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	Four (4) maps have been prepared by the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i> (Attachment D1).</p> <p>Council confirmed on 7 May 2025 that it approved the draft and that the plan should be made (Attachment D2).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

5 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the relevant strategic planning framework under the *Environmental Planning and Assessment Act 1979*, including the Central West and Orana Regional Plan 2041, Council's Local Strategic Planning Statement, and the Orange Local Housing Strategy.
- It is consistent with the Gateway determination (as altered).
- It seeks to implement locally endorsed Council strategy.
- Site considerations can be suitably managed to support the proposal.
- The site can be suitably serviced with required utilities and infrastructure.
- The proposal is projected to deliver an approximate yield of 102 lots that will contribute towards Orange's short and long-term residential supply and support the development of additional diverse housing options.
- Issues raised during consultation have been addressed, including DPIRD's submissions on the original and amended planning proposal.



22/05/2025

Jessica Holland

Manager, Southern, Western and Macarthur Region

Local Planning and Council Support



23/5/2025

Chantelle Chow

A/Director, Southern, Western and Macarthur Region

Local Planning and Council Support

Assessment officer

Oliver Cope

Planning Officer, Southern, Western and Macarthur Region

Local Planning and Council Support

02 9383 2103

Attachments

Attachment	Document
A1	Planning proposal (November 2024)
A2	Post-exhibition report (March 2025)
A3	Report to Council (September 2023)
A4	Council resolution (March 2025)
B1	Gateway determination (August 2024)
B2	Gateway determination report (July 2024)
B3	Gateway determination letter to Council (August 2024)
B4	Gateway alteration (December 2024)
B5	Gateway alteration report (December 2024)
B6	Gateway alteration letter to Council
C1	Rural Fire Service submission
C2	Department of Primary Industries and Regional Development submission
C3	Department of Climate Change, Energy, the Environment and Water submission
C4	Transport for NSW submission

D1	Consultation with Council draft LEP
D2	Council confirmation on adequacy of draft LEP