

Memorandum

To File

From Damien Pfeiffer Director Regions, Western
0400978105

Date 29 May 2018 File no IRF18/2020 File OConnel DRW memo 28 May
2018.doc

Subject: Oberon Council Planning Proposal (PP_2018_OBERO_001_00) – Rezone to large lot residential Part Lot 4 DP 1023024, O’Connell Road, O’Connell

Purpose

To consider and determine planning proposal (PP_2018_OBERO_001_00) having regard to the planning proposal, information provided by Council and DPE assessment report.

Background

- Oberon Council submitted a planning proposal on 22 February 2018 (**Attachment A**) to rezone part Lot 4 DP 1023024 (area of about 200 ha) from zone RU1 Primary Production to zone R5 Large Lot Residential and change minimum lot size from 100 ha to 10 ha. This will permit the land to be subdivided into 17 x 10 ha lots for dwelling house purposes.
- An initial assessment of the proposal was undertaken by DPE that resulted in further information being requested from Council on 9 April 2018.
- On 19 April 2018 Council provided further information. (**Attachment B**).
- On 22 May 2018 Director Regions endeavoured to contact General Manager Oberon to discuss determination option for the proposal.
- A final Gateway Determination Report dated 25 May 2018 (**Attachment C**) recommended that the proposal not be supported and the Gateway determination for refusal be issued.
- On 28 May 2018 Director Regions again endeavoured to contact General Manager Oberon to discuss proposal. Spoke with Planning Director.

Issues

The issues are as follows:

- The planning proposal is not consistent with the Central West and Orana Regional Plan 2036. The proposal undermines the directions contained within the Regional Plan which seeks to ensure the provision of suitably located rural residential land that is supported strategically by a local land use strategy.
- The planning proposal to rezone land RU1 Primary Production to R5 Large Lot Residential is not strategically considered and is inconsistent with the endorsed Oberon Land Use Strategy.
- The planning proposal will create a disproportionate demand on services and infrastructure in O’Connell which is zoned RU1 Primary Production and therefore problematic for Council to develop services and facilities that would be required to support additional rural residential development.

- The planning proposal is inconsistent with Section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 5.10 Implementation of regional plans as well as State Environmental Planning Policy (Rural Lands) 2008 as it will result in the loss of 200ha of agricultural land that is not supported by the endorsed Oberon Strategy.
- Information provided by Council and the proponent indicates that O'Connell has an existing supply of land zoned R5 Large Lot Residential with the potential for approximately 63 lots. This provides the immediate locality with approximately 13 years of supply.

The Oberon Council area has a total of approximately 1348ha of existing vacant land zoned R5 Large Lot Residential providing the potential for approximately 411 lots.
- Council officers recommended that the proposal not be supported. Councillors recommended that the proposal proceed to Gateway determination.

Comment/Options

I have thoroughly considered the planning proposal, Council's further information, the Gateway Determination Report and the circumstances of the case. The following options to determine this proposal have been considered: -

1. Issue a Gateway determination that refuses the proposal for reasons as outlined in the Gateway Determination Report.
2. Issue a conditional Gateway determination that requires a strategic planning review of large lot residential land in the Oberon local government area.
3. Request Council to withdraw the proposal until the strategic work has been undertaken.

I am of the view that Option 2 is preferred in that the proposal be conditionally approved subject to conditions. I am recommending this option for the following reasons:

- The time that has passed since the Oberon Strategy was prepared and endorsed. It is timely that Council review the Oberon Strategy.
- The proposal has merit for further strategic investigation having regard to the planning proposal information notwithstanding it is inconsistent with the Oberon Strategy and CWORP.
- To allow Council to strategically justify the proposal in relation to the large lot residential land supply at O'Connell and in the Oberon Council local government area.
- To allow the strategic review of the large lots residential land in consultation with agencies and the community.

Recommendation

As the delegate of the Minister for Planning I recommend that a Gateway determination be issued subject to the following conditions:

1. Prior to undertaking community consultation of the planning proposal, Council is to prepare an addendum to the Oberon Land Use Strategy 2013 (Oberon Strategy) in respect to the rural residential / large lot residential component having regard to, but not limited to, the following:
 - a. Review the existing Oberon Strategy recommendations and suitability of the supply and demand for rural residential / large lot residential in Oberon Council area and make recommendations for any changes based on the revised trends, assumptions and evidence including;
 - i. Review the Oberon settlement hierarchy classification;

- ii. Consider each proposed change in relation to the relevant section 9.1 Ministerial Directions, State Environmental Planning Policies and Central West and Orana Regional Plan 2036;
 - iii. Consider the subject site (Part Lot 4 DP 1023024 O'Connell Road O'Connell) in relation to the above review;
 - iv. Review the scenic heritage value of the land surrounding O'Connell; and
 - v. Review the appropriateness of the zone RU1 Primary Production at O'Connell settlement.
- b. Consider and submit to the Department of Planning and Environment results of consultation with relevant agencies in relation to the draft Addendum.

The abovementioned Addendum to the Oberon Strategy is to be submitted to the Department of Planning and Environment for approval prior to undertaking community consultation.

2. Prior to community consultation Council is to demonstrate to the Department of Planning and Environment that it is satisfied with the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land.
3. Prior to community consultation being undertaken consultation is required with the Department of Planning and Environment – Resources and Energy under section 3.34(2)(d) of the Act to address the inconsistency with section 9.1 Direction 1.3 Mining, Petroleum Production and Extractive Industries.

The Department of Planning and Environment – Resources and Energy is to be provided with a copy of the planning proposal and any supporting material, and given at least 40 days to comment on the proposal.

The result of the consultation is to be provided to the Department of Planning and Environment seeking approval to undertake community consultation.

4. Community consultation is required under sections 2.22 and 3.34(2)(c) of the Environmental Planning and Assessment Act 1979 as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Environment August 2016)*.
5. Consultation is required with the following public authorities under section 3.34(2)(d) of the *Environmental Planning and Assessment Act, 1979*:
 - Department of Primary Industry – Agriculture
 - NSW Roads and Maritime Services
 - Department of Industry – Water
 - Office of Environment Heritage

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act, 1979*, the final LEP maps must be

prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2015.

7. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the *Environmental Planning and Assessment Act, 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
9. Council not be authorised to exercise plan making delegation as the local planning authority in this case. Such delegation be reconsidered after condition 1 is completed.



30.5.18

Damien Pfeiffer
Director Regions, Western
Planning Services

Grace Johnson

From: Shane Wilson <Shane.Wilson@oberon.nsw.gov.au>
Sent: Monday, 27 August 2018 10:11 AM
To: Tim Collins
Cc: Wayne Garnsey
Subject: RE: O'Connell Gateway Review
Attachments: O'Connell PP.pdf

Hi Tim

About 15mm rain here, but better than none.

Council at the 19 June 2018, resolved (Copy of resolution attached):

That the matter be deferred due to the amount of material received and the implications to Council until such times as the formal review being proposed by the proponent is complete.

So given a resolution is made, I'm unable to provide any additional information at this time.


Regards

Shane Wilson

Planning & Development Director

02 6329 8122 Direct
0408 220 702 Mobile
shane.wilson@oberon.nsw.gov.au
www.oberon.nsw.gov.au



 Please consider the environment before printing this email

From: Tim Collins [mailto:timothy.collins@planning.nsw.gov.au]
Sent: Monday, 27 August 2018 9:50 AM
To: Shane Wilson
Cc: Wayne Garnsey
Subject: O'Connell Gateway Review

Hi Shane – hope you had ok weekend? Ended up with 20mm rain here which has got a few excited.

I am pulling the O'Connell Gateway review together to lodge with IPC. I know you mentioned that Council didn't have any further comments on the proponents request for the Review, however I will need you to put a letter back to us stating this, that Council has no further comments, or along those lines.

Happy to discuss this further.

Cheers

Tim

Tim Collins
Planning Officer
Western Region
Department of Planning & Environment
PO Box 58 | DUBBO NSW 2830
T 02 6841 2196
F 02 6884 8483
E Timothy.Collins@planning.nsw.gov.au



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consultation the Council established a certain number of lots balancing the needs of the community and future development. We have enough subdivision, any more would forever change the whole community. We are custodians of one of the most historic places in the State. The National Trust register talks about its unique quality linked by the O'Connell Avenue, it is a special place and we are custodians for this. In 20 – 30 years we will say why did it happen, what have we lost. We need to protect this piece of Oberon now. Heritage is important, it gives us our sense of place. It is also an economic asset, it will be a point of difference which makes people want to come and visit the area.

8. CONFIRMATION OF MINUTES

Ordinary Meeting 15 May 2018

Moved: Capel
Second: Kellam

That the Minutes of the Ordinary Meeting held on 15 May 2018 be confirmed.

Carried 02 190618

Matters Arising from the Minutes

Nil

Moved: Doney
Second: Capel

That report item 13.01 be brought forward and dealt with at this point in time.

Carried 03 190618

13.01 PLANNING PROPOSAL – 2519 O'CONNELL ROAD

File No: PR186-2519

Author: Shane Wilson - Planning & Development Director

Summary:

Director Regions, Western Planning Services considered and determined the planning proposal, having regard to the planning proposal, information provided by Council and Department of Planning and Environment assessment report. This resulted in a conditional gateway determination being approved, as detailed within this report.

Moved: McCarthy
Second:

That Council consider the gateway determination and subsequent conditions and determine its preferred direction based upon the information contained within the report.

The motion lapsed for want of a seconder.