

5 August 2019

Mr. Craig Mortell  
Orange City Council  
PO Box 35 ORANGE 2800

**Also by email: [CMortell@orange.nsw.gov.au](mailto:CMortell@orange.nsw.gov.au)**

Dear Mr. Craig,

**RE: ORANGE LEP 2011 Amendment LLEP  
LAND: Lot 15 DP 6694, Lot 3 DP 255983, Lot 2 DP 255983, Lot 14 DP 6694 and Lot 25 DP 6694 – 390 Clergate Road and 440 Clergate road Orange**

I acknowledge receipt of your email dated 12 July 2019 relating to a Planning Proposal to amend Orange Local Environmental Plan 2011 (Planning Proposal) on Lot 15 DP 6694, Lot 3 DP 255983, Lot 2 DP 255983, Lot 14 DP 6694 and Lot 25 DP 6694 (Land) lodged by Orange City Council (Council) and seeking comments from John Holland Rail (JHR).

Rail Corporation New South Wales (RailCorp) is the landowner of the Country Regional Network (CRN) railway lines across NSW. As of 15 January 2012, JHR has been appointed to manage the CRN. As such JHR is responsible for reviewing development applications, planning proposals and policies adjoining the rail corridor to ensure that potential impacts to rail operations (current and future) are considered and addressed.

The Planning Proposal seeks to amend Orange Local Environmental Plan 2011 to rezone the Land from RU 1-Primary Production and IN1-General Industrial to R5 -Large Lot Residential and E4-Environmental Living and to reduce the minimum lot size for subdivision from 100ha to a combination of 4000m<sup>2</sup> and 8000m<sup>2</sup>. It is noted that once the Planning Proposal is finalized, a future subdivision of the Land is expected to follow to create 450 residential lots.

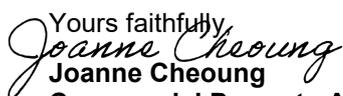
Please be advised that the Land to which the Planning Proposal is related to, is immediately adjacent to a part of the Orange Junction to Dubbo rail corridor which is currently in operation.

As such, this letter is prepared in consultation with the following authority:

- *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* (the ISEPP);
- *Development Near Rail Corridors and Busy Roads – Interim Guideline (2008)* (the Guideline) <http://www.rms.nsw.gov.au/documents/projects/guideto-infrastructure-development-near-rail-corridors-busy-roads.pdf>; and
- [Zoning for Infrastructure in LEPs \(PN 10-001\) in LEP Practice Notices published by Department of Planning & Environment \(NSW\)](#)

JHR have no objections to the Planning Proposal provided that Council considers comments outlined in Attachment A. Please be advised that comments as outlined in Attachment A have been prepared based upon the information in support of the Planning Proposal. As such, they should also be considered in the context of any prospective development applications to be received on the Land in the future as well as the Planning Proposal.

Thank you again for requesting RailCop's comments on this Planning Proposal. If you have any further questions, please contact the writer either via email at [joanne.cheoung@jhq.com.au](mailto:joanne.cheoung@jhq.com.au) or telephone (02) 9685 5092 at your earliest convenience. I hope this has been of assistance.

Yours faithfully,  
  
**Joanne Cheoung**  
**Commercial Property Analyst**  
John Holland Rail  
Country Regional Network

## Attachment A

**Please note:** RailCorp is the rail authority for those sections of railway lines mentioned above, however, JHR are responsible for the operation of the infrastructure in respect thereof and will also be responsible for the review of the Planning Proposal.

### Sewerage Servicing

#### Issue:

It is noted that the Preliminary Servicing Strategy (PSS) provides council's Water and Sewerage Servicing Strategy which indicates a proposed sewer main traversing the rail corridor in order to provide sewerage servicing the proposed development area.

#### Recommendations:

In the event that the sewer main requires access to the rail corridor, Council must obtain approval from RailCorp as follows:

- a. Council will be required to submit an application to JHR for its endorsement for approval/non-approval or approval with conditions by RailCorp;
- b. once the application is approved, Council will then be required to enter into a licence with RailCorp on terms suitable to RailCorp in relation to installation of sewer main being on the rail corridor land. The licence will relate to the works being performed on the land and for the turnouts to remain on the land. Terms of the licence may include provisions which allow RailCorp to terminate the agreement and remove the infrastructure at any time, will require the licensee to pay an annual licence fee, obligates the licensee to comply with certain safety requirements specifically in relation to accessing the rail corridor to perform maintenance on the infrastructure (e.g. engaging rail protection officers) etc. The licence to install a sewer main will require Council to hold relevant levels of insurance, bank guarantees etc. Should Council require more information regarding this issue, Council should contact JHR's Third Party Works Team via [CRN.3rdpartyworks@jhq.com.au](mailto:CRN.3rdpartyworks@jhq.com.au);
- c. Upon execution of the licence, Council will be required to carry out the works in compliance with the JHR's requirements in respect of service installations in the rail corridor [CRN CS 540](#) and service crossings [CRN CM 541](#);
- d. The applicant must submit an application to take possession of the railway corridor or part thereof (or air space) for assessment and endorsement by JHR prior to the actual proposed access in accordance with JHR's Network Rules and Procedures and the JHR Possession Manual. This information can be found at <http://jhrcrn.com.au/what-we-do/network-operations-access/network-access-planning-performance/>. Once assessed and endorsed, JHR will submit the application for approval / approval with conditions or no approval by the rail authority.

Please note that this letter does not constitute an approval from the RailCorp in respect of installation of the sewer main in the rail corridor

### Stormwater Management

#### Issue:

The Guideline provides that discharge of stormwater from a development during and after construction should be designed to ensure that no adverse effects will be had on the existing watercourse and drain infrastructure system. It is noted that the PSS also provides a high-level assessment of stormwater management of the site confirming that flows in the post-development will not exceed the 1% AEP from pre-

development. However, it appears that the PSS does not contain information whether the proposed stormwater management has adverse impacts on the rail land and rail infrastructure.

Recommendation:

Council is requested to provide JHR with a concept stormwater design which includes information as to whether and how stormwater runoff from the site is to be discharged into the rail corridor, if so, whether it will have any impact on the rail corridor.

**Electricity Transmission lines**

Issue:

It is noted that the PSS and various documents in support of the Planning Proposal contain images indicating electricity transmission lines traversing various parts of the rail corridor. It is not clear whether they are existing or proposed electricity transmission lines. Please be advised that neither JHR nor RailCorp have records having been consulted in respect of electricity transmission lines traversing the rail corridor in the case that they are proposed lines. In addition, neither JHR nor RailCorp have records permitting those traversing the rail corridor if they are purported to be existing lines.

Comment:

Regardless of those lines being purported to be existing or proposed, should Council or the applicant intend to have the existing electricity transmission lines be connected to the development area, Council or the applicant are requested to provide JHR with details of the relevant electricity provider to enable to resolve this issue in a timely manner.

**Impacts on Level crossing and Overbridge**

Issue:

Clause 84 of the ISEPP states that the consent authority must not grant consent to development without the concurrence of the rail authority for the rail corridor if the development involves a likely significant increase in the total number of vehicles or the number of trucks using a level crossing.

It is noted that the Traffic Impact Assessment considers the impact of the development on the surrounding road network but it does not contain information whether the traffic generated by the development would have consequential impact on a level crossing at Clergate Road and an overbridge situated adjacent to Lot 15 DP 6694 during occupation and construction.

Recommendation:

Should the relevant be lodged with Council, Council will be requested to impose a condition that the applicant prepares and provides JHR with an assessment based upon the Australian Level Crossing Assessment Model in order to identify key potential risks regarding the level crossing as a result of the increased use of vehicles. In the event that such assessment finds that there will be significant increases in their use and/or any upgrades are recommended they are to be implemented in the development at the cost of the applicant (which may include upgrade of the level crossing to a grade separated crossing), Council will also be requested to update the current Road Rail Interface Agreement to reflect the change to the level crossing in accordance with the Rail Safety National Law 2012.

In addition, our records indicate that there is a private level crossing in operation which leads to an internal road in Lot 3 DP 255983. However, neither JHR nor RailCorp have evidence that the level crossing is allowed to be used by the owner of Lot 3 DP 255983. As such, Council is requested to advise that the applicant must provide JHR with evidence allowing the owner of Lot 3 DP 255983 to use the level crossing. In addition, as it is a private accommodation crossing, if the development changes the use of the crossing then the development will bear all costs associated with any necessary upgrades.

Finally, the bridge is on the Higher Mass Limit (HML) network and as such can be accessed by vehicles up to 26 tonnes and any vehicle over the legal limit for HML network will be required to obtain an Over Size Over Mass (OSOM) permit from JHR. As such, Council will be requested to impose a condition requiring the applicant to submit an application to obtain a permit to use heavy machinery exceeding the current legal limit to JHR for approval with or without special conditions / non-approval. The applicant must contact JHR via email at [CRN.HeavyVehicle@jhg.com.au](mailto:CRN.HeavyVehicle@jhg.com.au) prior to scheduled use of heavy machinery to discuss as to whether or not such an application is required.

In the meantime, please be advised that JHR is scheduled to install a sign on the bridge to the above effect in due course.

### **Noise, vibration & air quality**

#### Issue:

Clause 87 of the ISEPP 2007 provides that if the development is for the purpose of a building for residential use, the consent authority must be satisfied that appropriate measures for noise levels will be taken to ensure that the following LAeq levels are not exceeded:

- in any bedroom in the building: 35dB(A) at any time 10 pm to 7 am;
- anywhere else in the building (other than a garage, kitchen, bathroom or hallway):40dB(A) at any time.

It is noted that the Land is immediately adjacent to the rail corridor which is currently in operation.

#### Recommendation:

Council will be requested to ensure that the requirements of Clause 87 of the ISEPP 2007 above are met at a development assessment stage as the Planning Proposal is proposed with an intention of subsequent residential subdivision. In addition, Council will also be requested to impose a condition that the landowners of each lot comprising the Land must agree to an easement for noise and vibration generating from the rail corridor to burden each lot and benefit RailCorp.

### **Closure of Crown Roads**

#### Issue:

Figure 1 in the PSS shows legend for Crown roads which are subject to a proposal for closure seemingly being ancillary to the Planning Proposal. However, Figure 1 does not show the locations of Crown roads. It is important for JHR and Railcorp to have knowledge of those locations to review the proposed closure of the Crown roads to ensure that the proposal does not have any adverse impacts on the current rail operation. Please be advised that it is vital for JHR and RailCorp to have access to Crown roads as a legal point of access for unplanned maintenance or emergency inspection of the operational rail corridors.

#### Comment:

Council should provide JHR with further information regarding locations of Crown roads which are subject to a proposal for closure.

### **Rezoning**

Council should consider the Department of Planning's LEP Practice Note Zoning for infrastructure in LEPs Ref. no PN 10-001 which is available at <https://www.planning.nsw.gov.au/-/media/Files/DPE/Practice-notes/zoning-for-infrastructure-in-LEPs-2010-12-14.pdf> in its consideration of planning proposals.

RailCorp supports the zoning of its land in accordance with the principles outlined in this practice note.