

CLAUSE **CL01**

TITLE **DA 3/2018 - Update and Final Gateway Request - Schedule 1 Additional Permitted Use - Lot 2 DP 1098689**

FROM **Phil Harding, Director Sustainable Development**

TRIM REF **19/54417**

SUMMARY

This report follows on the previous Council report dated 09 October 2018 and is an update and final gateway request that seeks approval for an amendment to Schedule 1 of the Griffith Local Environmental Plan (LEP) 2014 to allow an additional permitted use **‘vehicle sales or hire premises’** at Lot 2 DP 1098689, 8 Pedley Road Hanwood.

Both this and the previous report relates to the Planning Proposal submitted by Hutcheon & Pearce to enable their current business to re-locate to the abovementioned site.

In terms of section 3.36 of the Environmental Planning and Assessment Act 1979 No 203 Council approval is required in order to refer the matter to the NSW Department of Planning Industry and Environment’s Legal Branch for checking before being forwarded to Parliamentary Council for final preparation of the instrument of change to the LEP.

RECOMMENDATION

That Council:

- (a) Endorse the proposed changes to the GLEP as stated in Attachments (b) and (c);**
- (b) Forward this report and correspondence to date on the notification process and resolution of matters, as well as the endorsed Draft Instrument Changes attached to this report, to the NSW Department of Planning, Industry & Environment, for making of the Amending LEP;**
- (c) Authorise the Director Sustainable Development to liaise and make appropriate changes (if required), with the NSW Department of Planning, Industry & Environment, on any administrative matters in making this Planning proposal into an Amending LEP;**
- (d) Authorise the Director of Sustainable Development to make this LEP under any delegation afforded by the NSW Department of Planning, Industry & Environment.**

REPORT

On 9 October 2018 Council resolved as follows:

“RESOLVED on the motion of Councillors Mike Neville and Simon Croce that:

- (a) *Council endorse Planning Proposal 3/2018 set out in Attachment A that seeks amendment to Griffith Local Environmental Plan 2014 to include an additional permitted use on Lot 2 DP1098689; and*
- (b) *Council give delegated authority to the Director Sustainable Development to submit the Planning Proposal to the Department of Planning and Environment to seek a Gateway Determination; and*
- (c) *Should Gateway approval be granted by the Department of Planning & Environment the Planning Proposal be placed on public exhibition for community consultation, and where identified consult with any relevant public authority; and*
- (d) *If any submissions are received, Council considers such before the proposal is resubmitted to the Department of Planning and Environment for consideration and final assessment."*

Council's request for gateway approval was forwarded to and approved by the NSW Department of Planning, Industry & Environment on 20 December 2018.

In light of the upcoming review of the Griffith Local Environmental Plan 2014 (LEP), approval provided for a two (2) year sunset clause. This will enable the development to proceed irrespective of the upcoming review process of the LEP which is a statutory requirement every five (5) years. (see Attachment (a) - gateway approval)

Public notification followed and two submissions were received:

- A nearby landholder was concerned that Pedley Road was not sealed and additional traffic would generate dust
- RMS would not approve access direct onto Kidman Way.

The submission issues were put to the applicant. The applicant responded expressing willingness to seal Pedley Road to their access/egress point on Pedley Road and not use the Kidman Way access which appeased both submissions.

By agreement the proposal has reached a positive position post-notification and any future development application to allow Hutcheon & Pearce to develop on Lot 2 DP 1098689 could be conditioned accordingly.

Provided Council resolves for the process to continue in line with the recommendation provided, the matter will be referred to the NSW Department of Planning Industry and Environment's Legal Branch for checking before being forwarded to Parliamentary Council for final preparation of the instrument of change to the Griffith Local Environmental Plan (LEP) 2014.

OPTIONS

OPTION 1

As per recommendation above.

OPTION 2

Any other resolution of Council.

POLICY IMPLICATIONS

None known.

FINANCIAL IMPLICATIONS

None known at this time.

LEGAL/STATUTORY IMPLICATIONS

As described in previous and current reports. This is a proposal to change Council's primary planning instrument.

ENVIRONMENTAL IMPLICATIONS

N/A

COMMUNITY IMPLICATIONS

To be reviewed further at the implicated Strategic Review of Transition Zones along with the LEP Review.

LINK TO STRATEGIC PLAN

This item links to Council's Strategic Plan item: 9.1 Encourage considered planning, balanced growth and sustainable design.

CONSULTATION

Senior Management Team

NSW Department of Planning, Industry & Environment

NSW Roads & Maritime Services

Neighbouring landholders, all as described in report.

ATTACHMENTS

- | | | |
|-----|--|----|
| (a) | Planning proposal gateway approval ↓ | 15 |
| (b) | Draft Clause - GLEP 2014 - Schedule 1 - New Clause 4 ↓ | 19 |
| (c) | Draft LEP Map - 3450_COM_APU_004A_020_20170314 ↓ | 21 |



Planning & Environment

PP_2018_GRIFF_002_00/IRF18/6852

Mr Brett Stonestreet
General Manager
Griffith City Council
PO Box 485
GRIFFITH NSW 2680

Dear Mr Stonestreet

Planning proposal (PP_2018_GRIFF_002_00) to amend Griffith Local Environmental Plan 2014 – Additional permitted use – 8 Pedley Road, Hanwood.

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 29 November 2018 and 14 December 2018 in respect of the planning proposal to allow an additional permitted use of a 'vehicle sales or hire premises' at Lot 2 DP1098689, 8 Pedley Road, Hanwood. The proposed use is to be limited to a two year period to allow the development to proceed.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions (3.4 Integrating Land Use and Transport, 5.10 Regional Plans and 6.3 Site Specific Provisions) are justified in accordance with the terms of the Direction. No further approval is required in relation to these Directions.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office (parliamentary.counsel@pco.nsw.gov.au) 10 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment (westernregion@planning.nsw.gov.au) for administrative purposes.

All related files for LEP Amendment, including PDF Maps, Map Cover Sheet, planning proposal document and GIS Data, if available, must be submitted to the

188 Macquarie Street Dubbo NSW 2830 | PO Box 58 Dubbo NSW 2830 | planning.nsw.gov.au

Department via the Planning Portal Website at www.planningportal.nsw.gov.au/planning-tools/online-submission-planning-data. To submit the data, Council is required to create an account and log in using these details.

In accordance with "A guide for the preparation of local environmental plans" the Authorised plan making reporting template is enclosed for Council's information. Table 2 of the attachment is to be completed and included in Council's section 3.36 submission when requesting the planning proposal be finalised.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Ms Nikki Allen to assist you. Ms Allen can be contacted on 5852 6800.

Yours sincerely



20.12.18

Damien Pfeiffer
Director Regions, Western
Planning Services

Encl: Gateway determination
Authorised plan-making reporting template



Planning & Environment

Gateway Determination

Planning proposal (Department Ref: PP_2018_GRIFF_002_00): for Additional Permitted Use for 'vehicle sales and hire premises' at Lot 2 DP1098689, 8 Pedley Road Hanwood.

I, the Director Regions, Western at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to Schedule 1 of the Griffith Local Environmental Plan (LEP) 2014 to allow an additional permitted use for a period of two years of a 'vehicle sales or hire premises' at Lot 2 DP1098689, 8 Pedley Road Hanwood should proceed subject to the following conditions:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal 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 local environmental plans* (Department of Planning and Environment 2016).
2. Consultation is required with the Roads and Maritime Services under section 3.34(2)(d) of the Act. Roads and Maritime Services 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.
3. 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 Act. 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).
4. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - c. there are no outstanding written objections from public authorities.

5. Prior to submission of the planning proposal under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the final LEP maps (additional permitted uses maps) must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017.
6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 20th day of December 2018.



Damien Pfeiffer
Director Regions, Western
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning

PP_2018_GRIFF_002_00 (IRF 18/6852)

EXISTING SCHEDULE

Schedule 1 Additional permitted uses

(Clause 2.5)

1 Use of certain land at 4 Irrigation Way, Widgelli

- (1) This clause applies to land at 4 Irrigation Way, Widgelli, being Lot 3, DP 14591, identified as “Item 1” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of a freight transport facility is permitted with development consent.

2 Use of certain land at 798 Barracks Road, Yenda

- (1) This clause applies to land at 798 Barracks Road, Yenda, being Lot 565, DP 751728, identified as “Item 2” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of a heavy industry, being an ammunition factory, is permitted with development consent.

3 Use of certain land at 912 Kidman Way, Griffith

- (1) This clause applies to land at 912 Kidman Way, Griffith, being Lot 546, DP 751709, identified as “Item 3” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of general industry (limited to the manufacture of pumping equipment and assembly of large spray components for the agricultural sector) is permitted with development consent.

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## **PROPOSED SCHEDULE**

### **Schedule 1 Additional permitted uses**

(Clause 2.5)

#### **1 Use of certain land at 4 Irrigation Way, Widgelli**

- (1) This clause applies to land at 4 Irrigation Way, Widgelli, being Lot 3, DP 14591, identified as “Item 1” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of a freight transport facility is permitted with development consent.

#### **2 Use of certain land at 798 Barracks Road, Yenda**

- (1) This clause applies to land at 798 Barracks Road, Yenda, being Lot 565, DP 751728, identified as “Item 2” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of a heavy industry, being an ammunition factory, is permitted with development consent.

#### **3 Use of certain land at 912 Kidman Way, Griffith**

- (1) This clause applies to land at 912 Kidman Way, Griffith, being Lot 546, DP 751709, identified as “Item 3” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of general industry (limited to the manufacture of pumping equipment and assembly of large spray components for the agricultural sector) is permitted with development consent.

#### **4 Use of certain land at 8 Pedley Road, Hanwood**

- (1) This clause applies to land at 8 Pedley Road, Hanwood, being Lot 2, DP 1098689, identified as “Item 4” on the [Additional Permitted Uses Map](#).
- (2) Development for the purpose of *vehicle sales or hire premises* is permitted with development consent.
- (3) The provisions of this section of Schedule 1, pertaining to the property at 8 Pedley Road, Hanwood, cease to have effect if an application for development consent including this land use is not made before the expiration of 2 years after the commencement of this clause

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