

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING & ASSESSMENT PANEL REPORT

8 May 2018

Item no:	(leave blank)
Application Number:	RZ-7/2017
Proposed Development:	Amend Schedule 1 of the Liverpool Local Environmental Plan 2008 (LLEP 2008) to include a vehicle sales or hire premises as an additional permitted land use at 2A Helles Avenue, Moorebank (Lot 1 and 3 DP 626253).
Property Address	2A Helles Avenue, Moorebank
Legal Description:	Lot 1 DP 626253, Cnr Lot 3 DP 626253
Applicant:	AHG NSW
Land Owner:	A C MCGRATH AND CO PTY LTD
Recommendation	Proceed to gateway review
Assessing Officer:	Marcus Jennejohn – Executive Planner

1. EXECUTIVE SUMMARY

Council has received an application for a planning proposal to amend Schedule 1 of the Liverpool Local Environmental Plan 2008 (LLEP) to include a *vehicle sales or hire premises* as an *additional permitted land use* at 2A Helles Avenue, Moorebank (Lot 1 and Lot 3 DP 626253). The site is currently zoned IN1 General Industrial and the proposed land use is prohibited under the LLEP 2008.

The application has been submitted pursuant to Section 3.33 of the *Environmental Planning and Assessment Act (EPAA) 1979* and the proposal is referred to the Liverpool Local Planning Panel in accordance with Section 2.19 of the *EP&A Act 1979* for advice.

Council has also received a concurrent Development Application (DA-406/2018) for a change of use to vehicle sales and auction premises.

The planning proposal has strategic and site specific merit. The proposal to amend the LLEP is consistent with *Section 9.1 Directions* and other relevant regional and local plans as identified in this report.

2. SITE DESCRIPTION AND LOCALITY

The Site

This planning proposal is site specific and relates to land at Lot 1 and Lot 3 DP 626253 known as 2A Helles Avenue, Moorebank. The site is approximately 1.2km south-east of the Liverpool CBD and only accessed via Moorebank Avenue. The site is surrounded by IN1 zoned land with the nearest residential development approximately 250m north-east of the site. The approved Moorebank Intermodal Terminal is located approximately 1km south (on the southern side of the M5) and Helles Park is 160m to the west. Mannheim Auctions is located directly opposite the site at 144 Moorebank Avenue, Moorebank.



Figure 1 – Aerial photograph of subject site

History

- DA-165/2013 - On 21 June 2013, development consent was granted for continued use of four (4) internal wash bays within an existing warehouse.
- DA-406/2018 – Lodged on 21 May 2018 for a change of use to vehicle sales and auction premises. Note this DA will not be formerly assessed until and if Gateway is granted.

3. DETAILS OF THE PROPOSAL

The proposal seeks to amend the Liverpool Local Environmental Plan (LLEP) 2008 as follows:

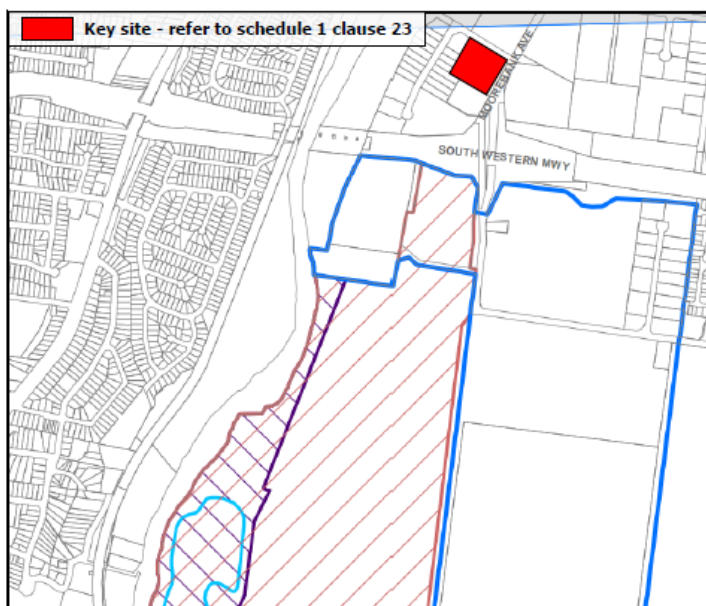
Schedule 1 is proposed to be amended by adding the following :

Use of certain land at Moorebank in Zone IN1

(1) This clause applies to Lot 3, DP 626253 in Zone General Industrial at 2A Helles Avenue, Moorebank.

(2) Development for the purposes of a Vehicle Sales or Premises is permitted with consent.

The LLEP 2008 Key Sites Map is also proposed to be amended as follows:



Key features of the proposal which would be subject to DA assessment are defined below:

Customer Lounge	A customer lounge within an area of 282m ² is located in the south-western corner of the warehouse and will be utilised in conjunction with vehicle sales. Amenities are also included within the customer lounge area.
Office	Ground floor and mezzanine offices ancillary to the vehicle sales use comprise a combined area of 324m ² and are located in the south-western corner of the site. Additionally, a 'fixed price' sales office and staff amenities (including kitchenette and lunch room) with a combined area of 222m ² are situated in the south-eastern corner of the warehouse.
Auction Area	Auctions are proposed to be undertaken in the south-western corner of the warehouse. The auction area includes a vehicle presentation area, customer seating, auction booth and sales desks.
Vehicle Storage and Display	The western portion of the warehouse will be utilised for vehicle storage and display, and comprises 104 bays. Combined with the auction area, the vehicle storage and display area comprises an area of 2,852m ² .
Fixed Price Car Display	The eastern portion of the warehouse will be utilised for the display of vehicles available for fixed price sale. The fixed price car display area comprises 70 bays and an area of 1,845m ² .
Hoist and Washbays	Two (2) hoist bays, two (2) wash bays and two (2) dry bays are located in the north-eastern corner of the warehouse and comprise a combined area of 255m ² .
External Storage Bays	A total of 308 storage spaces are located throughout the external areas of the site.
Service Drop Off Bays	24 service drop off bays are located adjacent to the eastern site boundary.
Customer Car Parking	18 parking spaces adjacent to the southern boundary have been allocated as customer parking.
Staff Car Parking	20 parking spaces in the south-western corner of the site have been allocated as staff parking.

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Hours of Operation	Auction times: 11am (no Sunday auction) Regular operating hours: 8:30am – 5:30pm Monday to Friday; 9:00am – 5:00pm Saturday & Sunday.
Number of Employees	Auctions: 20 sales/admin staff at any given time. Fixed Price Sales: Sales consultants x 3 Business Manager x 1 Yard manager x 1 Detailers x 3 Mechanic x 1
Number of Customers	During auction events: 30 Any other time: 5

4. CONSIDERATIONS FOR STRATEGIC MERIT

The Department's *A guide to preparing planning proposals* includes the following questions to justify the proposal (Section A, Q1 and Q2).

1. *Is the planning proposal a result of any strategic study or report?*
2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Planning Proposal seeks to amend Schedule 1 of the LLEP 2008. Although the proposal has not been made as a result of any strategic study or report, it is considered to be the best means of facilitating the development.

The proponent provides a number of reasons to support the proposal, including why the planning proposal is the best means of achieving the intended outcome.

These are:

- That the inclusion of vehicles sales on the site will support the automotive operations of AHG and will provide a compatible mix of land uses which promote employment-generation.
- Vehicle sales would be integrated within the existing warehouse and would provide enhanced economic activity without compromising the operations or amenity of any surrounding sites.
- That the incorporation of vehicle sales on the site would not result in any land use conflict within the subject site or with land uses operating on surrounding sites. Rather, vehicle sales within the existing warehouse will complement a compatible range of uses relating to vehicle repairs and storage.
- That the proposal will assist in the stimulation of economic activity within Moorebank.
- That it will preserve the use of the site for employment-generating development by enabling development for purposes which employ staff.
- That the proposal will integrate with the character of the Moorebank precinct and respond to the use established by similar automotive auction facilities operating within immediate proximity of the site.

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- That vehicles sales on the site would make use of existing infrastructure and built form and therefore the site represents a highly appropriate location for the proposed use to occur.

The Department's *A guide to preparing planning proposals* includes the following question to delineate consistency with the NSW strategic planning framework (Section B, Q3).

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?*

The Department includes 'assessment criteria' which provide guidance on assessing a proposal's consistency with matters raised in Question 3. The following table summarises the assessment criteria.

Guideline Assessment Question	Response
<i>Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment; or</i>	This question is addressed in detail below.
<i>Consistent with a relevant local council strategy that has been endorsed by the Department; or</i>	There are no relevant local Council strategies that have been endorsed by the Department to consider
<i>Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.</i>	There are no notable changes in circumstances that have not been recognised by existing planning controls

A Plan for Growing Sydney

A Plan for Growing Sydney (Metro Plan) is a NSW Government regional strategy for the Sydney area which replaced the Metropolitan Plan for Sydney 2036. It includes general goals and directions applicable across the Greater Sydney area and more localised sub regional strategies. The proponent provides an assessment which demonstrates that the proposal generally aligns with key strategic directions defined in the strategy. Council's assessment responses to key strategic directions are appended to the original table and provided below.

Item	Proponent's Response	Assessment Response
1.9 Support Priority Economic Sectors Action 1.9.2 Support key industrial precincts with appropriate planning controls	<i>The proposal will support employment-generating uses through the provision of vehicle sales or hire premises. By enhancing the viability of the site's operations, the proposal will also support the role of Moorebank as an important employment lands precinct within the Liverpool LGA.</i>	The proposal supports Action 1.9.2 as the IN1 zone will not be altered and the proposal will not impact on the industrial land stocks of Liverpool.
South West Subregion ▪ A competitive economy ▪ Priorities for strategic centres	<i>In accordance with the priorities for the South West subregion, the proposal will support a competitive economy through the provision of vehicle sales or hire premises within an established employment lands precinct, the</i>	The proposal supports the subregional priority to 'identify and protect strategically important industrial-zoned land'.

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	<i>fostering of economic activity, the provision and support of employment-generating development and the reinforcement of the desired future character of the area.</i>	The proposal does not alter the existing connectivity of land east of Georges River.
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A Plan for growing Sydney has now been superseded by a Metropolis of Three Cities Regional Plan. Note, the Ministerial direction has not been updated to reflect this.

A Metropolis of Three Cities (Greater Sydney Region Plan 2018)

Objective 23 of The Greater Sydney Region Plan 2018 focuses on retention and management of existing industrial and urban services land and to ensure it is *safeguarded from competing pressures, especially residential and mixed-use zones*. The proposal is consistent with this objective in that the land remains serviceable for future industrial purposes. This objective is reiterated as Action 51 in the Western City District Plan.

Western City District Plan

Planning Priority W10 of the Western City District Plan focuses on managing and retaining the industrial precincts of Western Sydney as these areas will be the major long-term industrial/employment land for Greater Sydney. The proposal is consistent with this priority as it will not impact on the zoning or potential future use of land which has been identified as important to protect for industrial employment.

The Department's *A Guide to Preparing Planning Proposals* includes the following question (Section B, Q4)

4. *Is the planning proposal consistent with Council's local strategy or other local strategic plan?*

Our Home Liverpool 2027

Council's *Our Home, Liverpool 2027* is a Community Strategic Plan (CSP) and provides strategic directions that have been identified by the community and the measures that will allow Council to determine progress towards achieving them. The four key directions are: creating connection, strengthening and protecting our environment, generating opportunity and leading through collaboration. The proposal aligns with the third direction (generating opportunity) which states:

Liverpool Council will

- *Attract businesses for economic growth and employment opportunities*
- *Create an attractive environment for investment*

The proposal will support an expanded use of the site and promote employment generating activities.

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9.1 Directions by the Minister (previously Section 117)

The planning proposal addresses the following directions, pursuant to Section 9.1 of the EP&A Act 1979:

Direction	Objectives	Council officer comments
9.1 DIRECTIONS		
1.1 Business and Industrial Zones	<i>To encourage employment growth in suitable locations.</i>	Consistent. The proposal is generally consistent with this direction and will provide for employment growth in Moorebank.
	<i>To protect employment land in business and industrial zones.</i>	Consistent. The proposal will retain existing IN1 zoned land for employment uses. Subsection 4 of Direction 1.1 requires that a planning proposal must <i>give effect to the objectives of the direction, retain areas and locations of existing industrial and business zones and not reduce the total potential floor space area for industrial uses in industrial zones.</i> The proposal is consistent with these objectives and retains the future availability of industrial zoned land.
	<i>To support the viability of identified strategic centres.</i>	N/A
4.3 Flood Prone Land	<i>To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.</i> <i>To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</i>	Consistent. The site is identified as flood prone land. The proponent has identified that the proposed use would be taking place within the existing building on the site. Council's Flooding Section have reviewed the proposal and provide support noting that the site is located in a low risk flood zone, however it is within the flood planning area of the Georges River. The proposal will not have any adverse impact on flooding and there is no objection to the proposal from a flooding perspective.

Liverpool Local Environmental Plan 2008

(a) Zoning

The site is zoned IN1 – General Industrial. An extract of the zoning map is provided below.



Figure 2 – Extract of LLEP 2008 zoning map

(b) Permissibility

The current use of the site is for a vehicle repair and storage facility which is permitted with consent as a hybrid of the following activities which are permissible in the IN1 zone: vehicle body repair workshops, vehicle repair stations, storage premises and warehouse or distribution centres.

Vehicle sales or hire premises are defined by the LLEP 2008 as follows:

vehicle sales or hire premises means a building or place used for the display, sale or hire of motor vehicles, caravans, boats, trailers, agricultural machinery and the like, whether or not accessories are sold or displayed there.

The site is zoned IN1 – General Industrial under Liverpool LEP 2008, within which Vehicle Sales or Hire Premises are identified as a prohibited land use.

(c) Objectives

The objectives of the IN1 zone are:

- To provide a wide range of industrial and warehouse land uses.

- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To particularly encourage research and development industries by prohibiting land uses that are typically unsightly or unpleasant.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

The addition of *vehicle sales or hire premises* as an additional permitted use is considered consistent with the objectives of the zone in that it will support an additional use of an existing warehouse facility which will provide employment while having minimal impacts on existing and future industrial land uses in the vicinity of the site.

Liverpool Development Control Plan 2008

Parking - The submitted TIA provides a parking assessment applying the Liverpool Development Control Plan (LDCP) vehicle showroom rate to the portion of the site which excludes the auction area. The TIA notes the auction component is intermittent however auction events are considered in the assessment for total parking requirements.

Parking is proposed to cater to both staff and customers during fixed sales and auction events. The TIA indicates parking supplied (71 spaces) would satisfy the projected parking demands and is based on a first principles assessment of both typical daily operations and concurrent fixed sales and auction demands. It is noted this is less than what would be required if LDCP rates are applied using the vehicle showroom rate (1 space per 130m²). The parking provisions proposed have been assessed and support by Council's Traffic and Transport Section.

5. CONSIDERATIONS FOR SITE-SPECIFIC MERIT

The Department's planning proposal guide includes the following site-specific 'assessment criteria' (Section B, Q3b).

Does the proposal have site-specific merit, having regard to the following:

1. *the natural environment (including known significant environmental values, resources or hazards) and*
2. *the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
3. *the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

Natural environment

The proposal is unlikely to have any measurable impact on the natural environment. The site is industrial and there is no direct connectivity to any natural environmental areas.

Existing and future uses

Vehicle sales on the site would support the existing automotive operations (repair and storage) and would provide a compatible mix of land uses which would not negatively impact land use in

the vicinity. Additionally, the proposed additional use is commensurate with existing land uses across Moorebank Avenue at the Mannheim Auctions site. There is a potential benefit being located in close proximity to the Mannheim Auctions site in that there is a reduction in vehicle trips for the general public between auction yards.

It should also be recognised that the site is north of the approved Moorebank Intermodal Terminal site and it is envisioned that this will result in substantial land demand for warehouse development as industrial based employment growth increases in the area.

Services and infrastructure

The proponent's TIA estimated in the order of 21 vehicle trips per hour during peak periods however this was compared to an estimated 29-58 vehicles per hour if the site were to be used for typical industrial purposes. The proposed use of the site is likely to result in a net loss of vehicle trips.

Council's Traffic and Transport Section raised a request to refer the proposal to RMS for comment given Moorebank Road is a State Road under the care and control of the RMS. Should the proposal be supported by Gateway, the RMS referral would be initiated at that stage. Additionally, the proponent has recently lodged a DA and as part of that assessment process a referral would be triggered for RMS comment.

The site is serviced by bus stops located along Moorebank Avenue which provide connections to Holsworthy and Liverpool train stations. Liverpool train station is approximately 2.3km by road from the site and an approximate eight minute journey from the nearest bus station (120m from the subject site).

Flooding

The site is identified as flood prone land. The proponent has identified that the proposed use would be taking place within the existing building on the site.

Council's Flooding Section have reviewed the proposal and provide support noting that the site is located in a low risk flood zone, however it is within the flood planning area of the Georges River. The proposed rezoning of the site will not have any adverse impact on flooding and there is no objection to the proposal from a flooding perspective.

Statutory considerations / Conditions

A number of conditions would need to be stipulated should the planning proposal be supported in order to maintain the objectives of the IN1 zone. The following points are to be addressed:

- The proposed additional permitted use of vehicle sales or hire premises be confined to within the existing warehouse building only;
- A maximum gross floor area is to be stipulated;

The external storage area not be used for the display of vehicles for sales and any sales of vehicles not be allowed to be conducted from the site other than from the inside of the warehouse building;

- It is also considered important that, at DA stage, that external storage is treated separately.

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The Department's *A guide to preparing planning proposals* includes the following questions regarding State Environmental Planning Policies (Section B, Q5).

Q5 PPG - Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPP)?

The proponent provides a review of the relevant SEPPs as provided below.

Policy	Comments
SEPP 1 – Development Standards	The Planning Proposal will not contain provisions that will contradict or hinder the application of the SEPP.
SEPP 55 – Remediation of Land	The subject site comprises an existing warehouse which is proposed to be utilised for auction and vehicles sales with only minor internal alterations required. Further consideration of SEPP 55 can be addressed as part of a future DA.
SEPP 64 – Advertising and Signage	Any signage associated with future vehicle sales or hire premises on the site would be assessed in accordance with SEPP 64.
SEPP (Infrastructure) 2007	State Environmental Planning Policy (Infrastructure) 2007 provides for certain proposals, known as Traffic Generating Development, to be referred to NSW Roads and Maritime Services (RMS) for concurrence. As noted earlier in this report, should the proposal be supported by Gateway, the RMS referral would be initiated at that stage.

Q7 PPG - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposed uses will be contained within the existing warehouse and therefore there is a very low likelihood of any adverse impacts on ecological communities or their habitats.

Q8 PPG - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This question has been addressed in Part 6 (site-specific merit 'assessment criteria') of this report.

Q9 PPG - Has the planning proposal adequately addressed any social and economic effects?

Council's Economic Development Section raised concern that if the subject proposal were allowed to operate as a full commercial retail vehicle sales operation it could impact other industrial businesses in the area and would be contrary to the zoning. The proposed Schedule 1 LEP amendment addresses this concern through restrictions which confine the area available for vehicle sales and auctions to within the existing warehouse.

There are no notable social implications for the proposal.

Q10 PPG - Is there adequate public infrastructure for the planning proposal?

This question has been addressed in Part 6 (site-specific merit 'assessment criteria') of this report. To reiterate, the site is serviced by buses with an eight minute journey from the nearest bus station (120m from the subject site) to Liverpool Station.

Q11 PPG - *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

As noted earlier, a referral will be made to the RMS subject to Gateway approval for the proposal. No other consultation with state or Commonwealth authorities has been considered necessary, however, can be addressed at DA stage should the proposal be supported.

6. PROPOSED LEP AMENDMENT

In consideration of the amendment sought by the applicant and Council's internal referral responses, the following LLEP amendment is proposed:

Schedule 1 is proposed to be amended as follows:

Use of certain land at Moorebank in Zone IN1

- (1) This clause applies to Lot 3, DP 626253 in Zone General Industrial at 2A Helles Avenue, Moorebank.*
- (2) Development for the purposes of a Vehicle Sales or Premises is permitted with consent if the total gross floor area of that development is not greater than 5,780m².*
- (3) The proposed additional permitted use of vehicle sales or hire premises is confined to within the existing warehouse building only;*
- (4) The external storage area shall not be used for the display of vehicles for sales or auction and no any sales of vehicles is allowed to be conducted from the site other than from the inside of the warehouse building.*

Next Steps

The usual process for planning proposal applications, following a review of the application, is for Council officers to finalise the proposal detailing the proposed changes to LLEP 2008 (this report). The Planning Proposal would then be reported to Council for endorsement and subsequently forwarded to the Department of Planning and Environment seeking Gateway.

Following a Gateway Determination, in support of the Planning Proposal, there will be public authority and community consultations, a public exhibition period and a further report to Council prior to proceeding with the making of any amendment to LLEP 2008.

7. CONCLUSION AND RECOMMENDATION

This report has been prepared following consultation with Council's Economic Development, Traffic and Transport, Flooding and Development Assessment Sections. Comments provided by Council departments indicate support for the proposal for the reasons outlined in this report.

The above assessment has shown that the proposal is consistent with State and local strategies. There is strategic merit to support the proposal. The proposal also demonstrates site specific merit in that the additional permitted use can support the existing operations while not negatively impacting on current or future land uses in the vicinity.

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It is recommended that the planning proposal to allow the additional permitted use for a *vehicle sales or hire premises* on the subject site proceed and that a report be drafted detailing a decision to support the proposal for consideration by Liverpool City Councillors.

9. ATTACHMENTS

- 1. Plans of the proposal**
- 2. Applicant's Planning Proposal**