

CLAUSE CL02

TITLE Planning Proposal 4/2018 for Lots 309 & 610 DP 751743 and Lots 102 & 104 DP 1018460 Boorga Rd, Nericon

FROM Steven Parisotto, Coordinator Land Use Planning & Compliance

TRIM REF 18/80030

SUMMARY

A planning proposal has been received from ARB Farming Pty Ltd seeking an amendment to Griffith Local Environmental Plan 2014 (LEP) that will reduce the minimum lot size provisions that limit the lot yield resulting from any future subdivision of Lots 309 & 610 DP 751743 and Lots 102 & 104 DP 1018460. The planning proposal would enable the subdivision of land to a minimum size of 10,000m² (1ha) from the current 50,000m² (5ha).

The purpose of this report is for Council to endorse the Planning Proposal (set out in Attachment "A") and, if endorsed, to delegate to the Director Sustainable Development the authority to submit the Planning Proposal to the Department of Planning and Environment for a gateway determination. The gateway approval will enable Council to progress with the intended amendment to the LEP giving effect to the planning proposal.

The following is a brief summary of the process:

- **Planning Proposal** – a planning proposal has been prepared seeking amendments to Griffith Local Environmental Plan 2014.
- **Gateway Determination** – subject to Council resolution the planning proposal is to be referred to the Department of Planning and Environment, whereby the Minister or their delegate is to decide whether or not the planning proposal can proceed, either with or without variation.
- **Community Consultation** – the gateway determination will set down procedural requirements in respect to community consultation which is a minimum of 28 days. The Minister will also advise whether or not public authorities are to be consulted.
- **Assessment** – that Council will review any public submissions, including any made by a public authority. The assessment will be referred to Parliamentary Counsel for preparation of the draft LEP.
- **The making of the LEP** – that upon review of Parliamentary Counsel and subsequent approval by the Minister, the amendments to the Local Environmental Plan are published and come into effect.

It is critical for Councillors to understand the environmentally sensitive nature of the locality and the importance for the appropriate management of sewage generated and stormwater run-off due to an increased lot yield. Council should note that these matters will be at the forefront of the consideration of any future development application lodged following approval of the planning proposal at hand.

Should a development application following an approved planning proposal be submitted to Council at a later stage, staff will be recommending to Councillors that sewage be managed via connection to Council's sewer network or the provision of appropriate infrastructure along the lakeside boundary of each allotment to capture any sewage leachate, along with controlling the quality of overland and subsurface drainage.

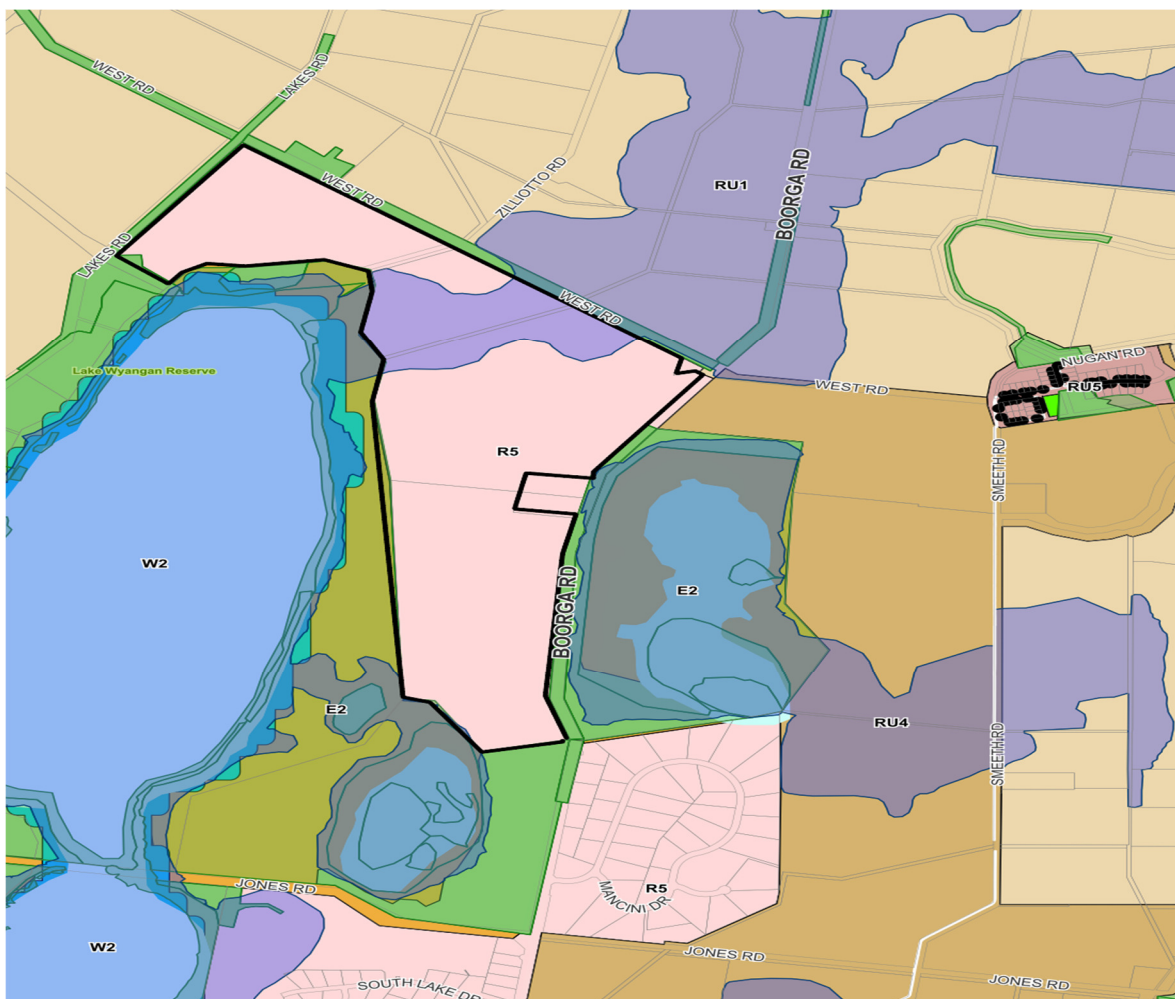
RECOMMENDATION

- (a) That Council endorse Planning Proposal 4/2018 set out in Attachment A that seeks amendment to Griffith Local Environmental Plan 2014 to reduce the minimum lot size requirements for the purpose of subdivision for Lots 309 & 610 DP 751709 and Lots 102 & 104 DP 1018460; and**
- (b) That 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) That 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 re-submitted to the Department of Planning and Environment for consideration and final assessment; and**
- (e) That, should this Gateway Proposal be ultimately approved by the Department of Planning and then Council finally approve the Proposal, that recommendation (f) apply to a subsequent Development application; and**
- (f) That Council, as part of assessment of or for any future Development Application for further subdivision on the subject land and Lake Wyangan catchment, commission an independent, suitably qualified consultant to evaluate the impact of stormwater and sewage discharge from the development.**

REPORT

On 26 July 2016 Council considered a report from the Planning and Environment Manager that addressed a Planning Proposal for Rural Lands. That planning proposal had the intention to redistribute the development potential for large lot residential lands throughout Griffith to more efficiently utilise these lands, avoid land use conflict and direct growth in areas of higher demand. Specifically it related to the following lands:

- Lots 309 & 610 DP 751743 and Lots 101, 102 and 104 DP 1018460 (being the former Sunset Waters site and incorporates four lots as part of the subject planning proposal by ARB Farming Pty Ltd) set out in the plan below:



- Lots 899, 900, 901, 1106 & 1402 DP 751709, Lots 1 & 2 DP 802981, Lot 2 DP 870431, Lots 4 & 5 DP 1128516 and Lots 1 & 2 DP 1128694 (being land bound by Rankin Springs Road, Calabria Road and part of Citrus Road, Griffith).
- Lots 726 & 727 DP 46245 and Lot 115 DP 751743 (being land bound by Boorga Road and Mallinson Road, Lake Wyangan).

For reference purposes the land referred to the second and third dot points above have been included in Attachment B.

With regard to the report presented to Council on 26 July 2016 in respect to Lots 309 & 610 DP 751743 and Lots 102 and 104 DP 1018460, it was identified that to achieve the objectives and outcome of the Planning Proposal the minimum lot size map would remove reference to “Area C” and decrease the minimum lot size to one hectare.

The reference to Area C relates to clause 4.1(3A) of Griffith Local Environmental Plan 2014 which enables Council to consider the subdivision of land within that Area so as to create lots of 3000m² if Council is satisfied that it will be connected to a reticulated sewer.

Following discussion Council, in respect to the report prepared by the Manager Planning and Environment, resolved:

- (a) *Staff hold further discussions with the land owners with a view the Planning Proposal be amended as follows:*
- *Farmland south of Calabria Road adjacent to Rankins Springs Road – allow a minimum block size of 8,000m² and consider incorporating additional block of land north of Calabria Road.*
 - *Farmland adjacent to Mallinson Road – allow a minimum block size of 2000m² and intersection of Mallinson Road and Boorga Road be redesigned.*
- (b) *Preparation of an amended Planning Proposal and masterplan be funded by the proponents.*
- (c) *The amended Planning Proposal be reported to Council for endorsement prior to seeking Gateway approval.*

To date no planning proposals have been submitted in respect to the farmland south of Calabria Road adjacent to Rankin Springs Road and farmland adjacent to Mallinson Road described in the resolution made on 26 July 2016.

ARB Farming Pty Ltd however has decided to reactivate the planning proposal that relates to Lots 309 & 610 DP 751743 and Lots 102 and 104 DP 1018460 previously considered in the report to Council on 26 July 2016.

Since the report to Council in 2016 ARB Farming Pty Ltd has been granted development consent to the subdivision of Lot 102 DP 1018460 based on the lot averaging provisions set down in Clause 4.1B of Griffith Local Environmental Plan 2014, however this consent has not yet been acted upon.

Clause 4.1B enables Council to grant development consent to create lots of any size in the R5 zone on the basis that the total lot yield does not result in a greater number of lots being created than if the minimum lot size requirements were met. To achieve the benefit of lot averaging, ARB Farming Pty Ltd relied on the entire existing holding (being Lots 102 and 104 DP1018460 & Lots 309 and 610 DP751743) being taken into account. The lot yield for a parcel of land totalling approximately 190.1ha, with the 5ha average being applied, is 38 lots.

The approved development enabled the creation of 37 lots ranging in size from one (1) up to approximately 77 hectares, which has effectively exhausted any further large lot residential development of the land.

As part of the review of the Planning Proposal comments were sought from our Environmental Health Coordinator and our Engineering Design and Approvals Manager and the following key points made:

- Any Aerated Wastewater Treatment Systems (AWTS) installed on these soil types have potential to generate sub-surface hydraulic flows downslope and generate off site contamination of nearby environmentally sensitive water bodies (Lake Wyangan and Campbell's Swamp). These two water bodies are subject to important International and Australian water bird treaties.
- The inherently saline nature of the existing site soil types is of concern if adding additional AWTS salt loadings onto these soil types further potentially exacerbating the issues of salinity downslope on and off site.

- Current Stormwater Quality Monitoring results should be verified through an independent audit and verification process. Insufficient detail has been provided to determine the integrity of this Water Sensitive Urban Development (WSUD) approach whilst a good number of other questions remain unresolved and outstanding.
- The Water Cycle Management Study submitted with the Planning Proposal suggests that water quality ponds can be constructed within the development to improve pollutant and sediment control. These plans indicate that the water quality ponds are to be constructed on adjacent Crown Land, which comprises of a high value protective and filtering plant community which must remain intact and undisturbed from any future development. Any water quality ponds proposed by the development will need to be located on private land and maintained by individual lot owners.
- Stormwater runoff will not be permitted to flow over the sites property boundaries onto adjoining properties.
- Part of the subject land, being the majority of Lot 309 DP 751743 and part of Lot 104 DP 1018460, is mapped as being flood affected. It is acknowledged that as a result of subdivision of the land, future dwellings will be constructed which will consist of habitable rooms. Floor levels will be subject to Council's Floor Heights Policy (CS-CP-318) and Council's Flood Liable Lands Policy (CS-CP-403) and would be 108.1m AHD (107.6m + 500mm freeboard).
- A sewerage pumping station (Council Asset ID PSG17) has been constructed at the corner of Boorga Road and Smeeth Road to service part of the Lake Wyangan catchment area, including the sites subject to the Planning Proposal and the subject sewer pumping station is operational. As part of any future development it should be the applicant's responsibility to provide a pressure sewer system from the proposed development to the existing sewerage pumping station.

The engineering and environmental issues raised with the Planning Proposal are consistent with the concerns raised in the assessment of previous development applications associated with the land. These concerns are not without foundation and provide for alternatives which may be considered as part of the planning proposal or deferred to the assessment of any future development application which must be submitted to progress the development. These alternatives would include:

- Allow the further subdivision of Lots 309 & 610 DP751743 and Lots 104 DP1018460 but maintaining the minimum lot size of 50,000m² without the benefit of the lot averaging concession. This would enable the creation of an addition 26 lots and would be an alternative for the planning proposal; or
- Require reticulated sewer to be connected to the lots. Under the current provisions of Griffith LEP 2014, the applicant could create lots of a minimum of 3000m². In this regard no change to the local environmental plan.

OPTIONS

OPTION 1

As per recommendation.

OPTION 2

Council not proceed with the planning proposal until such time as the Plan of Management for Lake Wyangan has been completed and independent modelling being undertaken by a suitably qualified person to examine the potential cumulative impacts that may result the future development of the land.

OPTION 3

Any other resolution of Council.

POLICY IMPLICATIONS

The proposed planning proposal may result in a possible amendment to the Griffith Land Use Strategy: Beyond 2030. Any such amendment would be part of the upcoming review process of the strategy.

FINANCIAL IMPLICATIONS

There are no significant financial implications to Council arising from the recommendations in this report.

LEGAL/STATUTORY IMPLICATIONS

Griffith Local Environmental Plan 2014 is an environmental planning instrument for the purpose of the Environmental Planning and Assessment Act, 1979 and it provides the statutory provisions whereby Council establishes the zoning of land, identification of permissible land uses and the setting of development standards. A planning proposal is a lawful mechanism that enables Council to consider amendments to its environmental planning instrument to revise development standards.

ENVIRONMENTAL IMPLICATIONS

The environmental implications have been considered in the studies provided by ARB Farming Pty Ltd as part of their planning proposal and internal comments provided. This does not negate the need for any additional studies that may be required as part of development application assessment process.

COMMUNITY IMPLICATIONS

The community expectation is that the Ministerial directions provided by Section 9.1 of the Environmental Planning and Assessment Act, 1979 are carefully considered. These directions provide specific planning principles which need to be considered when making decisions of land.

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, Director Sustainable Development, Manager Planning & Environment, Engineering Design and Approvals Manager and Environmental Health Coordinator.

ATTACHMENTS

- (a) Council Report Planning Proposal 4/2018 - Planning Proposal for Lots 309 & 610 DP 751743 and Lots 102 & 104 DP 1018460 (Minimum Lot Size) (under separate cover)
- (b) Council Report Planning Proposal 4/2018 - Locality Maps