

Section 3.36 Planning Report

Planning Proposal Details

PP_2018_GRIFF_003_02 to amend Griffith Local Environmental Plan 2014 – reduction in minimum lot size – Boorga Road, Nericon

Planning Proposal Summary

The purpose of the Planning Proposal is to permit the future development of Lots 309 & 610 DP 751743 and Lots 102 & 104 DP 1018460 Boorga Road, Nericon (the site) for residential development utilising onsite sewage management systems with a minimum lot size of 1 ha subject to the preparation and endorsement of the Lake Wyangan Waste and Stormwater Management Strategy for New Developments.

Date of Gateway Determination

08 July 2020

1.0 Summary

In 2016 ARB Farming was granted development consent for 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 (LEP) under DA 95/2017. Clause 4.1B enables Council to grant development consent to create lots of any size in the R5 – Large Lot Residential 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 relied on the entire existing holding (being Lots 102 and 104 DP1018460 & Lots 309 and 610 DP751743) being taken into account which has an area of approximately 185 ha.

The approved development enabled the creation of 37 lots ranging in size from one (1) up to approximately 77 hectares (representing the residual lots in the northern portion of the site with frontage to West Road), which has effectively exhausted any further large lot residential development of the land under the present LEP.

To further develop the residual lands not proposed to be subdivided for rural residential lots under DA 95/2017, ABR Farming submitted the Planning Proposal in 2018 requesting the minimum lot size for the site be reduced from 5 ha to 1 ha and permit residential development utilising onsite sewage management systems (see **Attachment 1**). This would permit the further development of the residual lots for a maximum of 120 lots.

Prior to exhibiting the Planning Proposal, Council consulted with internal staff and key government agencies who raised some concerns regarding potential water quality impacts associated with the use of onsite sewage management systems. Based on this consultation, a report was endorsed at the 23 October 2018 Ordinary Meeting of Council to request a Gateway Determination from DPIE on the proviso that an independent, suitably qualified consultant be procured to evaluate the impact of stormwater and sewage discharge from the development and prepare a strategy for future development within the Lake Wyangan Catchment.

DPIE issued the first of three Gateway Determinations on 7 November 2019 which required Council to complete an independent Stormwater and Sewage Discharge Assessment of the proposal prior to the Plan being made.

Public exhibition of the Planning Proposal took place between 14 November 2020 and 13 December 2020. During the public exhibition period a total of three submissions were received, one from Natural Resources Access Regulator (NRAR), one from the Biodiversity Conservation Division (BCD) of DPIE and one from Crown Lands (see **Attachment 3**). Following further consultation with government agencies and DPIE and the preparation of a Scope of Works and Expression of Interest for the Lake Wyangan Waste and Stormwater Management Strategy for New Developments, Council requested that the Gateway Determination be amended to remove the requirement to complete the independent study prior to the making of the Plan and alternatively permit the inclusion of a site specific clause requiring the preparation of a Development Control Plan (DCP) to provide water quality and quantity discharge criteria to Lake Wyangan prior to any residential development occurring on the site. Council also requested that DPIE delegate Council as the plan making authority to exercise the functions under section 3.36(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

On 30 March 2020 a new Gateway Determination was issued by DPIE which agreed to the request on the basis that they would be further consulted on the wording of the site specific clause. Following additional consultation with DPIE by Council staff, a third and final Gateway Determination was issued on 8 July 2020 which removed the requirement to further consult with DPIE regarding the clause.

Civille Consultants have been procured by Council to prepare the Lake Wyangan Waste and Stormwater Management Strategy for New Developments (the Strategy) and have been consulted with on the drafting of the site specific LEP clause. The timeline for the completion of the Strategy and the preparation of the DCP is roughly July – August of 2021.

In accordance with the site specific LEP clause, the owner of the land would not be able to develop the site utilising on-site sewage management systems for lot sizes less than 5 ha until the Strategy and DCP are completed and endorsed by Council. The clause also requires any future development of the site to be in accordance with the Strategy and DCP. The Strategy will also be utilised to inform the preparation of detailed drainage design plans for the Lake Wyangan Masterplan area.

2.0 Gateway Determination

Gateway determination was issued by the Department of Planning, Industry and Environment on 07 November 2019 under delegated authority and amended on 30 March 2020 and 08 July 2020 (**Attachment 2**). A request to draft and finalise the LEP was sent to Parliamentary Counsel's Office (PCO) on 25 March 2021. An opinion and draft LEP were received from PCO on 12 May 2021. All of the conditions of the Gateway Determination have been adhered to.

3.0 Community Consultation

Public exhibition of the Planning Proposal took place between 14 November 2020 and 13 December 2020 in accordance with the Gateway Determination notification.

The Public Exhibition process was carried out in accordance with section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning, Industry and Environment 2016), which included the following:

- Letters to landowners in the immediate locality;
- The display of the Planning Proposal and exhibition materials at Council's Customer Service Centre and online;
- Advertising of the public exhibition in the Area News twice during the 28 day period;

and

- Council's planning staff were available to answer enquiries during the public exhibition period in person at Council's Administrative building or by phone.

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The public submissions and the proposed amendments to the GLEP 2014 were considered at an Ordinary Meeting of Council on 09 March 2020 in which Council endorsed the proposed amendments to the GLEP and authorised Council Staff to liaise with Parliamentary Counsel to make the plan.

4.0 Views of Public Authorities

The public authority submissions are provided at **Attachment 3**.

NRAR provided the following comments:

- Considerations to manage watercourses should be consistent with NRAR's Guidelines for Controlled Activities
- It is recommended salinity management measures be included in a development
- Future development applicants on waterfront lands may require a Controlled Activity Approval
- NRAR supports the proposed stormwater management system concept.

Biodiversity Conservation Division of DPIE provided a long submission, the contents of which make it appear they did not fully understand the proposal nor acknowledge that the lands are presently zoned R5 – Large Lot Residential and 3000 sq. m. lot sizes are permitted should sewerage be connected. Council has noted their submission.

Crown Lands did not provide any comments.

5.0 Consistency with Section 9.1 Directions and other Strategic Planning Documents

Council is satisfied that the Planning Proposal titled: Planning Proposal – Lake Wyangan Large Lot Residential, prepared by ABR Farming Pty Ltd, dated 23 August 2018 adequately addresses the Section 9.1 Directions and other strategic planning documents including the provisions of the Riverina Murray Regional Plan (**Attachment 1**).

6.0 Parliamentary Counsel Opinion

A request to draft and finalise the LEP was sent to Parliamentary Counsel's Office (PCO) on 25 March 2021. An opinion and draft LEP were received from PCO on 12 May 2021 (**Attachment 6**).

7.0 Mapping

A new Minimum Lot Size (APU_004A) is attached at (**Attachment 5**)

8.0 Recommendation

Council as the local plan making authority has made the plan (**Attachment 7**)

ATTACHMENTS

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| Attachment 1 | Planning Proposal – ABR Farming |
| Attachment 2 | Gateway Determination – Department of Planning, Industry and Environment |
| Attachment 3 | Public Agency Submissions |
| Attachment 4 | Council report and minutes |
| Attachment 5 | Mapping |
| Attachment 6 | Parliamentary Counsel Opinion |
| Attachment 7 | Griffith Local Environmental Plan 2014 (Amendment No 6) and map cover sheet |
| Attachment 8 | Delegated Plan Making Reporting Template |