

## Planning Services

IRF18/6803

### Gateway determination report

<b>LGA</b>	Forbes
<b>PPA</b>	Forbes Shire Council
<b>NAME</b>	Inclusion of 'Highway Service Centre' and 'Service Station' as permissible with consent in SP3 Tourist zone (0 homes, 0 jobs)
<b>NUMBER</b>	PP_2018_FORBE_002_00
<b>LEP TO BE AMENDED</b>	Forbes Local Environmental Plan 2013
<b>ADDRESS</b>	Whole LGA – SP3 Tourist zones
<b>DESCRIPTION</b>	Whole LGA – SP3 Tourist zones
<b>RECEIVED</b>	3 December 2018
<b>FILE NO.</b>	IRF18/6803
<b>POLITICAL DONATIONS</b>	There are no known donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no known meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

Forbes Shire Council have requested for the Forbes Local Environmental Plan 2013 to be amended. The amendment will add 'highway service centre' and 'service station' as permissible with consent in the SP3 Tourist zone.

### Site description

The planning proposal affects all SP3 Tourist zones across Forbes LGA. Currently only two locations along the Newell Highway, south of Forbes CBD are zoned SP3 (**Figure 1**). The two subject sites are predominately vacant except for a souvenir store and the Forbes River Meadows Caravan Park (**Figure 2**).

### Existing planning controls

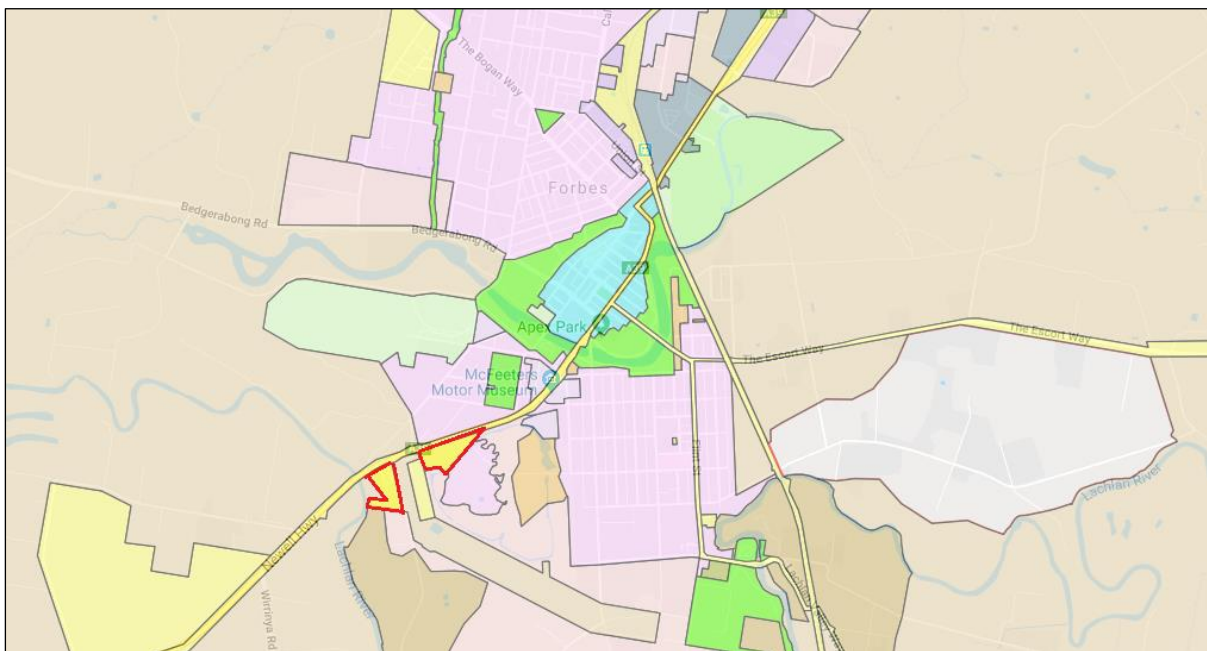
Currently 'service station' is permitted with consent in B2 Local Centre zones. Additionally, 'service station' and 'highway service centre' are permitted with consent in RU5 Village, B5 Business Development and IN1 General Industrial open zones.

Highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include any one or more of the following:

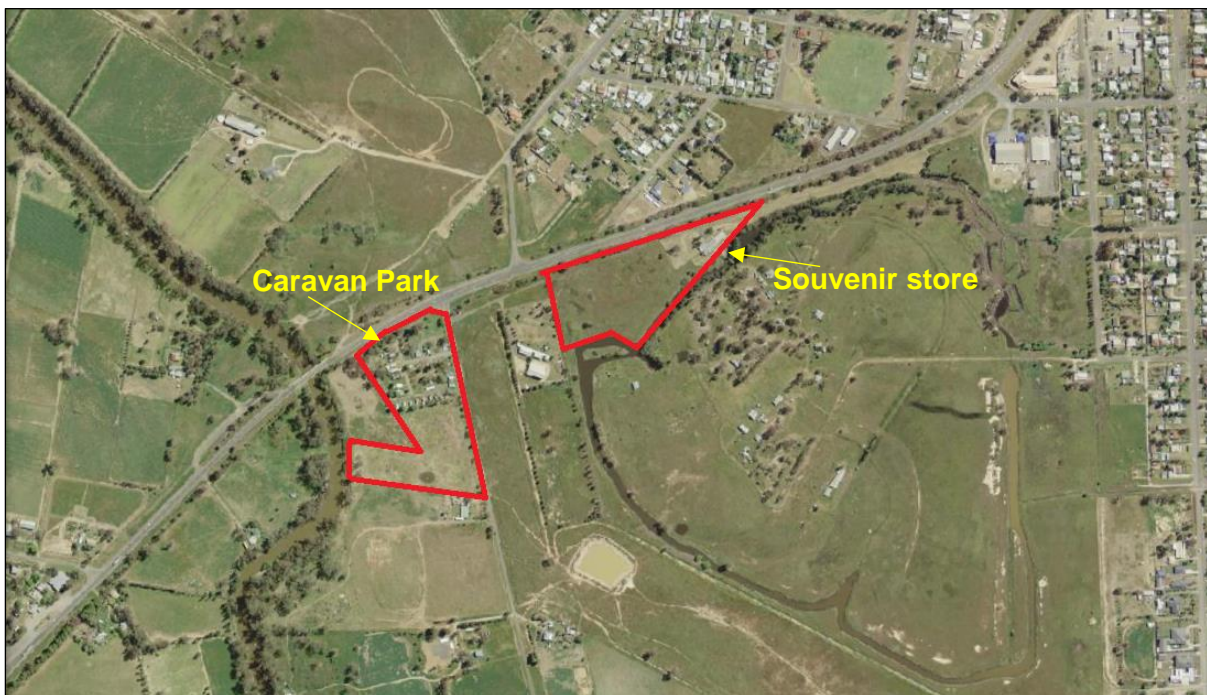
- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

Service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.



**Figure 1:** Land zone map of Forbes showing the two SP3 Tourist zone subject sites



**Figure 2:** Aerial imaging of the two SP3 Tourist zone subject sites

## **Surrounding area**

Of note, the two SP3 Tourist zones are located:

- Within the floodplain of the Lachlan River.
- On the fringe of the residential zone of Forbes (R1 General Residential and R5 Large Lot Residential zones).
- Along or connected to the Newell Highway.

## **Summary of recommendation**

Proceed with condition – The proposal has strategic merit as it is consistent with State, regional and local strategic documents. The proposal does not impose any site-specific provisions and will allow for additional land uses to be permissible in the SP3 Tourist zone. Detailed environmental, social and economic impacts of the proposal can be assessed at a DA stage and are expected to be manageable through a conditioned DA assessment process. Therefore, the planning proposal is recommended to proceed subject to conditions.

## **PROPOSAL**

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### **Objectives or intended outcomes**

The objective of the proposal is to allow for additional land uses to be permitted in tourist zones, subject to development approval. This will allow for 'highway service centres' and 'service stations' to be operated at additional locations in Forbes, along the Newell Highway, subject to development application approval from Council.

### **Explanation of provisions**

The planning proposal will add 'highway service centre' and 'service station' to the list of land uses which are permitted with consent in the SP3 Tourist zone.

### **Mapping**

No changes to maps in the Forbes LEP 2013 are required for this proposal.

## **NEED FOR THE PLANNING PROPOSAL**

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Council has submitted this proposal in response to predicted growth reports of the LGA. It found additional 'highway service centre' and 'service station' developments may be required to sustain the associated increase in traffic. The permissibility of 'highway service centre' and 'service station' in SP3 Tourist zones is encouraged in *Practice Note 09-006 Providing Tourism in Standard Instrument local environmental plans*. Furthermore, several Central West and Orana councils (Bathurst, Orange, Cowra and Dubbo) permit 'highway service centre' and 'service station' in SP3 Tourist zones.

An alternate method of achieving the intent of the planning proposal is through a Schedule 1 Additional Permitted Use (APU), specifying certain lots to allow these land uses. An APU is generally inconsistent with the section 9.1 Direction 6.3 Site specific provisions. The major concern with an APU is it can result in precedent of allowing certain land uses at inappropriate locations.

The planning proposal is considered the best method of achieving the outcome of the proposal as it is encouraged by the Department Practice Note 09-006, is similar to other LGAs in the region and does not impose any site-specific conditions.

## STRATEGIC ASSESSMENT

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### State

The Roads and Maritime Services (RMS) released the Newell Highway Corridor Strategy 2015 which predicted a substantial increase in light and heavy vehicle movement through Forbes. The Strategy lists *“appropriate infrastructure and services to help manage driver fatigue”* as a key challenge for the future of the Newell Highway. This shows a clear need for an increase in 'highway service centre' and 'service station' development along the Newell Highway. The planning proposal is consistent with this RMS strategy.

### Regional / District

Forbes falls under the Central West and Orana Regional Plan 2036 (CWORP). Direction 4 of the CWORP is to “promote and diversify regional tourism markets”, which recognises the importance of tourism for the region. The proposal is to add additional land uses which are suitable for tourist zones and encourage drive tourism and heavy vehicles to stop in Forbes. Therefore, the proposal is consistent with the following actions of the CWORP:

- 4.2 Work with councils to improve tourism-related transport services.
- 4.4 Enable opportunities appropriate for tourism development and associated land uses in local environmental plans.

### Local

Council provided information indicates the proposal is in line with the draft Forbes Community Strategic Plan. The proposal appears to be consistent with the following outcomes of the Plan:

- LE2: Support economic growth and expansion across the Shire through improvement of local public and private infrastructure and the allocation of land for commercial and industrial uses.
- LE9: Identify and promote local tourism opportunities and related services.

The Department endorsed Forbes Growth Management Strategy section 4.5.2 is to “capitalise on the existing and future traffic on the Newell corridor should be developed as a key aspect of any strategies addressing tourism.”. The proposal will allow for additional tourism developments to occur along the Newell Highway which is consistent with the Forbes Growth Management Strategy.

### Section 9.1 Ministerial Directions

The planning proposal is relevant to and consistent with the following Directions:

- 5.10 Regional Plans – The planning proposal is consistent with the CWORP as discussed in the regional strategic assessment section.
- 6.1 Approval and Referral Requirements – The planning proposal does not impose any additional concurrence, consultation or referral requirements and does not identify any additional development as designated development.
- 6.3 Site Specific Provisions – By allowing for additional land uses to be permissible in SP3 Tourist zone, the planning proposal is consistent with this direction.



## 2.1 Environment Protection Zones

This direction applies as parts of the subject sites are mapped as having groundwater vulnerability and terrestrial biodiversity values (**Figure 3**). The planning proposal does not reduce the environmental protection standards of the land, as required by this Direction. However, as the proposal relates only to permissible land uses, it does not contain provisions that facilitate the protection and conservation of environmentally sensitive areas. Any development which occurs from this planning proposal would be assessed for environmental impacts at the DA stage and mitigated accordingly. Administrative changes to environmentally sensitive areas are likely to be of minor significance, however, consultation with the Office of Environment and Heritage is recommended to ensure any inconsistencies are considered justified.



**Figure 3:** Map showing environmentally sensitive land of the subject sites.

## 3.4 Integrating Land Use and Transport

This direction applies as the planning proposal will alter a tourist zone through addition of permissible land uses. This direction requires for the proposal to be consistent with:

- Improving Transport Choice – Guidelines for planning and development (DUAP 2001).
- The Right Place for Business and Services – Planning Policy (DUAP 2001).

The planning proposal does not consider the principles of these guidelines. The planning proposal is to permit 'highway service centre' and 'service station' at two tourist zoned sites along the Newell Highway. This change to the LEP is considered minor and justifies the inconsistency with Direction 3.4.

## 4.3 Flood Prone Land

The subject sites are located on land which is mapped as flood prone in the Forbes LEP 2013 (**Figure 4**). Refined flood mapping shows the subject sites are within the low hazard flood fringe of the Lachlan River. Flooding in these areas is shallow,

around 20mm. Flooding at these depths is unlikely to close evacuation routes via a vehicle or on foot. Further flood impact controls would be implemented at the DA stage for this land use through conditions listed in Forbes Development Control Plan. Consultation with the State Emergency Services and OEH is recommended to ensure any inconsistencies with this Direction are considered justified. It is noted that Council is in consultation and undertaking a review of the flood mapping for Forbes.



**Figure 4:** Flood prone land mapping of the Forbes LEP 2013

### **State environmental planning policies (SEPPs)**

#### *State Environmental Planning Policy No 33—Hazardous and Offensive Development*

Both 'highway service centre' and 'service station' are types of potentially hazardous and offensive industries. This SEPP outlines provisions for assessing potentially hazardous and offensive industries at the DA stage. Provisions of this SEPP will be applied by Council at this stage.

### **SITE-SPECIFIC ASSESSMENT**

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#### **Social**

Operation of 'highway service centres' and 'service stations' have the potential to cause negative noise and odour impacts to nearby receptors. Of note the SP3 Tourist zone already contains a caravan park and has potential for future tourist accommodation to be developed. If any 'highway service centres' and 'service stations' applications are received, Council will assess and condition them to ensure they do not negatively impact existing or future adjacent development.

#### **Environmental**

The SP3 Tourist zones contain areas mapped as having groundwater sensitivity and terrestrial biodiversity values. While the administrative changes of this proposal will not affect these environmental areas, development of a 'highway service centre' or 'service station' could. To avoid environmental impacts, Council will assess any applications on a case by case basis. As the existing SP3 Tourist zones are predominately cleared, except for a tree line along the Newell Highway, impact to

threatened species or communities is expected to be low. Any storage of petroleum would be constructed and managed to avoid groundwater impacts.

### **Economic**

The planning proposal is allowing for 'highway service centres' and 'service stations' to be developed on additional land. It is expected this will have a positive economic impact on Forbes due to the potential for increased jobs and revenue at a variety of development sites.

### **Infrastructure**

All SP3 Tourist zoned land is adjacent to the Newell Highway and has access to town water, sewer and grid electricity. Council advises there is existing infrastructure suitable for development of 'highway service centre' and 'service station' on this land. Consultation with Roads and Maritime Services will be required in relation to Newell Highway frontage and access.

## **CONSULTATION**

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### **Community**

Council has proposed a 28 day community consultation period. This is considered appropriate as a reduced consultation period is not recommended when new land uses are being proposed for the LGA.

### **Agencies**

Council has not identified for any agency consultation unless specified by the Gateway determination. It is recommended for consultation to occur with:

- Roads and Maritime Services, as the planning proposal will affect land adjacent to the Newell Highway.
- State Emergency Services, to ensure flood mitigation and evacuation controls are sufficient and any inconsistencies with Direction 4.3 Flood Prone Land are justified.
- Office of Environment and Heritage, to ensure there is no increased risk of flood or changes in flood behaviour from the proposal and any inconsistencies with Direction 2.1 Environmental Protection Zones are justified.
- Environment Protection Authority and Department of Industry, Water to ensure there are no objections to permitting 'highway service centre' and 'service station' development adjacent to the Lachlan River and on groundwater sensitive land.

## **TIME FRAME**

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Council has proposed a six month timeframe starting from February to amend the LEP. A 12 month timeframe is recommended to compensate for delays over the end of year period and to undertake the required consultation.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority. As Council has no interest in the land affected by the proposal, Council should be authorised to be the local plan-making authority.

## **CONCLUSION**

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Preparation of the planning proposal is supported to proceed with conditions as it:

- Has strategic merit as it is consistent with State (Newell Highway Corridor Strategy 2015), regional (CWORP) and local (Forbes Community Strategic Plan and Forbes Growth Management Strategy) strategic documents.
- The proposal does not impose any site-specific provisions and will allow for additional land uses to be permissible in the SP3 Tourist zone.
- Is consistent with other LEPs in the Central West and Orana region, as well as the Department's *Practice Note 09-006 Providing Tourism in Standard Instrument local environmental plans*.

## RECOMMENDATION

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It is recommended that the delegate of the Secretary:

- agree that any inconsistencies with section 9.1 Direction (3.4 Integrating Land Use) is minor or justified.
- note that any inconsistencies with section 9.1 Directions (2.1 Environment Protection Zones and 4.3 Flood Prone Land) remains unresolved until further justification has been provided.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following agencies:
  - (a) Roads and Maritime Services.
  - (b) State Emergency Services.
  - (c) Office of Environment and Heritage.
  - (d) Environment Protection Authority.
  - (e) Department of Industry – Water.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



17.12.18

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18.12.18

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