

Planning Proposal
Liverpool Plains Shire Council

Strategic Housekeeping Amendment
Liverpool Plains LEP 2011
(Amendment No. 3)



7 May 2014

Legislative Framework

Pursuant to Section 55(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, a planning proposal must be prepared before a draft Local Environmental Plan (LEP) amendment is made. The proposal must explain the intended effect of the draft LEP amendment and provide justification for the amendment. The proposal must address those matters identified by Section 55(2) of the EP&A Act, which are considered as part of this Report. Council must then determine whether or not to proceed with the proposal.

Council resolution

Liverpool Plains Shire Council resolved to proceed with the LPLEP2011 Amendment No. 3 at its meeting of 23 April 2014. The report to Council, the relevant resolution in addition to the supporting *Issues and Options Report*, is included at Attachment 'A'.

Overview

The Liverpool Plains LEP took effect on 9 December 2011. This plan follows the format of the NSW Government's Standard Instrument for LEPs.

There has been significant community interest expressed in relation to the zoning of certain lands within the Quirindi Township, primarily pertaining to local business interests. In response to these extensive representations, Council staff were requested accordingly to investigate options to resolve these concerns. The outcomes of these investigations are addressed in the attached *Issues and Options Report*. It is considered that a level of consensus has been achieved in respect of an agreed path forward, appropriately balancing environmental, social and economic considerations. One mechanism that will be employed to address these concerns is targeted rezoning of certain lands, as identified in this planning proposal.

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Attachments

- A. Council Report, Resolution, and, Issues & Options Report April 2014
- B. Amended IN2 Land Use Table
- C. Delegation Evaluation Form
- D. Information Checklist

Part 1 – Objectives or Intended Outcomes

This planning proposal has the following aims and objectives:

1. To request the rezoning of certain additional lands within the township of Quirindi, generally in accordance with the *Liverpool Plains Growth Management Strategy 2009*.
2. To acknowledge existing land use patterns and to ensure that the land zoning framework is suitably cognisant with the existing development framework.
3. To amend the current IN2 Light Industrial zone land use table to permit certain additional land uses whilst maintaining the existing two tier industrial hierarchy.

Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending the Liverpool Plains Local Environmental Plan (LPLEP) 2011 by rezoning the following lands in accordance with the Table 1 below:

ID	Parcel Ref.	Real Property Description	Current Zone	Proposed Zone	Proposed MLS	Precinct
1	5,383 (McGuckin)	5//611525	R1	IN2	N/A	Centre St.
2	5,384 (Harrison)	3//611525	R1	IN2	N/A	Centre St.
3	5,387 (Love)	4//611525	R1	IN2	N/A	Centre St.
4	5,386 (BLC)	2//611525	R1	IN2	N/A	Centre St.
5	5,389 (Graincorp)	2//541388	R1	IN2	N/A	Centre St.
5a	5,390 (Graincorp)	3//541388	R1	IN2	N/A	Centre St.
6	5,204 (Howard's Buses)	74//664554	R1	B4	700m ²	Allnutt St.
7	6,950 (Bayliss)	9//56//758863	R1	B4	700m ²	Whittaker St.
7a	6,951 (Bayliss)	10//56//758863	R1	B4	700m ²	Whittaker St.
7b	6,952 (Bayliss)	11//56//758863	R1	B4	700m ²	Whittaker St.
8	6,948 (Moylan)	7//56//758863	R1	B4	700m ²	Whittaker St.
8a	6,949 (Moylan)	8//56//758863	R1	B4	700m ²	Whittaker St.
9	6,942 (Melville)	2//56//758863	R1	B4	700m ²	Whittaker St.

An amended IN2 Light Industrial Zone land use table is proposed. The amended Table has been developed in consultation with affected landholders and is attached at Appendix 'B'.

Part 3 – Justification

Section A – Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

An *Issues and Options Report* has been prepared in relation to this proposal. This Report was presented to the April 2014 Ordinary Meeting of Council and endorsed by Council accordingly. A copy of the Issues and Options Report is attached as Appendix 'A'.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the adopted LEP is the best means achieving the objectives of this planning proposal. Alternative options have been considered and are addressed in the attached Issues and Options Report.

Section B – Relationship to strategic planning framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The *New England North West Strategic Regional Land Use Plan* is applicable. It is considered that the planning proposal is consistent with the objectives of the Plan, specifically Action 5.2 of the Strategy (p.46):

Local Councils will zone land through their local environmental plans to ensure an adequate supply of employment land.

Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The planning proposal is considered to be generally consistent with the objectives of Council's adopted Land Use Strategy - the *Liverpool Plains Growth Management Strategy (2009)*. The Strategy adopts a two (2) tier industrial hierarchy (IN1 & IN2). It is intended to maintain such a hierarchy to ensure the appropriate current and future management of industrial development, cognisant of surrounding land uses.

Q5. Is the planning proposal consistent with application of State Environmental Planning Policies?

The Planning Proposal is considered to be consistent with the overarching NSW planning policy framework.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The proposal is consistent with the relevant Section 117 directions. Refer Table below:

1. Employment and Resources	
1.1 Business & Industrial Zones	Consistent. This planning proposal seeks to reflect and recognise current patterns of industrial and business development.
1.2 Rural zones	Consistent. This proposal will not affect lands that are zoned rural.
1.5 Rural lands	Consistent. This proposal will not affect lands that are zoned rural.
2. Environment and Heritage	
2.1 Environmental protection zones	Consistent. This proposal does not reduce the environmental protection standards applying to any land.
2.3 Heritage	Consistent. This proposal will not affect any items of heritage significance.
3. Housing, Infrastructure and Urban Development	
3.1 Residential zones	Consistent.
3.4 Integrating land use & transport	Consistent.
4. Hazard and Risk	
4.3 Flood Prone Land	Consistent. Some of the properties are identified as flood prone, including some lands within the proposed B4 Mixed Use zoning. Notwithstanding, the flood prone nature of the sites is not expected to substantially inhibit their current or future use. No alterations to existing flooding provisions are proposed.
4.4 Planning for bushfire protection	Consistent. The land the subject of this planning proposal is not subject to bushfire risk.
5. Regional Planning	
5.1 Implementation of regional strategies	Consistent. The proposal is consistent with the rural and urban growth provisions of the NE&NW SRLUP.
6. Local Plan Making	
6.1 Approval and referral requirements	Consistent. No additional concurrence requirements are proposed. Given proximity to the railway corridor, consultation with the Australian Rail Track Corporation (ARTC) is proposed.

Section C – Environmental, social and economic impact

Q7. 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?

No direct adverse environmental impacts have been identified. The planning proposal pertains to land that is urbanised and heavily disturbed.

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

No direct adverse environmental impacts are likely to arise as a result of the planning proposal.

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

The proposal is considered to have positive social and economic effects. It seeks to provide greater community and commercial certainty in respect to the ongoing operation of existing business enterprises within the Quirindi Township.

Section D – State and Commonwealth interests

Q10 . Is there adequate public infrastructure for the planning proposal?

This planning proposal does not impact on the need for public infrastructure. No additional infrastructure requirements have been identified.

Q11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with relevant state authorities will occur where specified as part of the Gateway Determination. It is intended to formally consult with the Australian Rail Track Corporation (ARTC) given proximity of some of the subject lands to an existing railway corridor.

Part 4 - Mapping

The following maps will be affected by the Planning Proposal:

- *Land zone map:* 4920_COM_LZN_004C_020_20120731 (Quirindi Township).
- *Lot size map:* 4920_COM_LSZ_004C_020_20120731 (Quirindi Township).

Maps, showing location of the subject lands, are provided below:



Map 1: Centre Street Precinct (Graincorp, Harrison, Love, BLC & Harrison)



Map 2: Allnutt Street Precinct (Howard's Buses)



Map 3: Whittaker Street Precinct (Bayliss, Moylan & Melville)

Part 5 – Community Consultation

It is considered that community engagement should include the placement of the proposal on public exhibition for a period of 28 days. The public exhibition would include notice within the local paper, use of social media, and, targeted consultation with both affected and surrounding landholders.

Part 6 – Project timeline

Action	Indicative Date
Gateway Determination	13 June 2014
Government Agency Consultation	13 June 2014
Public exhibition Period	16 June 2014 – 18 July 2014
Submission assessment	21 July – 1 August 2014
RPA assessment of PP and exhibition outcomes	August – September 2014
Submission of endorsed LEP Amendment to Dept. Planning and Environment for finalisation.	October 2014



**PROPOSED LIVERPOOL PLAINS
LOCAL ENVIRONMENTAL PLAN 2011**

AMENDMENT NO. 3

***ISSUES & OPTIONS
REPORT***

April 2014

Proposed Draft Liverpool Plains Local Environmental Plan 2011 Amendment No. 3

Issues and Options Report

PART 1 – INTRODUCTION & KEY RECOMMENDATIONS

What is a Local Environmental Plan?

- 1.1 The Liverpool Plains Local Environmental Plan 2011 (the LEP) sets out the strategic framework to guide the future development of the Liverpool Plains Shire. It details where future development will take place, and identifies land for community facilities, new housing, shops and employment. It is the key document used to determine development applications for proposals for new development within the Shire.
- 1.2 The current LEP was adopted as planning legislation (made as law) in December 2011. This formal gazettal process was the culmination of nearly a decade of research, community and government agency consultation, and, detailed strategic analysis. Importantly, it brought together four, largely disparate LEPs, into one holistic document. The LEP was also prepared in accordance with the overarching State government policy framework making it accepted best practice.
- 1.3 In addition to the LEP, the *Liverpool Plains Growth Management Strategy 2009* is also an important local planning document. This Strategy, which was previously endorsed by Council's elected representatives, formed an important foundation to the LEP. Its recommendations provided the key strategic directives implemented in the LEP.

Why are there properties under investigation?

- 1.4 There has been significant community interest expressed in relation to the zoning of certain lands within the Quirindi township, primarily pertaining to local business interests. In response to these extensive representations, Council staff were requested accordingly to investigate options to resolve these concerns.
- 1.5 At the Ordinary Council meeting held on 17 July 2013, Council resolved to pursue the preparation of a Planning Proposal in line with the identified Path C: '*Council staff prepare planning proposal in house in line with existing planning program*'.
- 1.6 As part of the July 2013 report, three (3) precincts were identified, and agreed by Council, as being suitable for future investigation:
 - *Whittaker Street*: located on the fringe of the Quirindi CBD area;
 - *Allnutt Street*: situated directly adjacent to the Great Northern Railway Line; and
 - *Centre Street*: located towards the northern extremity of Centre Street.

How & when were the investigations undertaken?

- 1.7 A comprehensive project plan was developed for this project. Copies of the overarching Project Plan, with corresponding timeframes and milestones, have been previously furnished to elected Council representatives and endorsed accordingly. Progress has been regularly reported to Council meetings and interested landholders.
- 1.8 Detailed strategic analysis of the agreed investigation areas was commenced by Council's Planning Division in December 2013. This review process included the consideration of, but not limited to, the following matters:
- Site specific constraints (for example flooding, traffic and heritage considerations);
 - Land ownership patterns;
 - Lot configuration;
 - Future development potential and any associated limitations;
 - Relationship to the current land use planning framework;
 - Infrastructure considerations;
 - Site contextual analysis; and
 - Historical land use approvals.
- 1.9 A project methodology was developed and embedded into the Project Plan. This overarching applied methodology has a key focus on achievement of collaborative outcomes (wherever practicable) and a foundation of strong stakeholder engagement objectives. These have been attempted to be balanced with broader community outcomes.

How were stakeholders engaged through the investigation process?

- 1.10 Due to the extensive community interest expressed in this project, an experienced consultant, Ms Cate McMahon from Invigor Consulting, was formally engaged by Council in a stakeholder liaison capacity.
- 1.11 A communication strategy (incorporating an engagement plan) was formulated by Ms McMahon in consultation with technical staff. This strategy established the 'blue print' for how key identified stakeholders would be both consulted and informed throughout the strategic investigation processes.
- 1.12 To assist in project delivery, Ms McMahon was nominated as the central point of contact for the project to administer community enquiries, and, to facilitate the gathering of background information from interested stakeholders. Importantly, this

approach also facilitated Council's technical staff to proceed with the task of delivering this project in accordance with the overarching agreed project timeframes and the Project Plan.

1.13 Liaison with stakeholders has been both ongoing and extensive throughout the process to this juncture. Contact has been maintained with all of the key stakeholders utilising a number of mechanisms, including:

- In person (face to face) contact, including personal interviews;
- Regular personal telephone contact to obtain information and collect background data from the key stakeholder groups, and to update key stakeholders on progress;
- Formal correspondence including questionnaires, acknowledgement letters and emails; and
- Regular progress reports being prepared and presented to Council meetings.

1.14 Feedback regarding the level and type of contact has been positive from a number of stakeholders.

How was information collected from stakeholders?

1.15 In addition to the mechanisms described in 1.13, an important component of the stakeholder engagement process included the preparation and distribution of land use questionnaires/surveys. Examples of the surveys have been previously reported to Council. The first questionnaire/survey (refer Annexure 'A') endeavoured to gain a baseline understanding of:

- What type of development and land use activities are **currently** being undertaken within the investigation areas; and
- What type of development and land use activities might be undertaken in the **future**.

An example of how to complete the survey was also provided to assist landholders in this process.

1.16 As part of the initial survey/questionnaire distribution, landholders were asked to provide information on their current and proposed business activities. These questionnaires were sent via registered post and completed and returned by the majority of the landholders. One property owner, Shell Pty Ltd, (Allnutt Street precinct) did not elect to participate in the process. No documentation was received by Shell Pty Ltd in response to the written request. Follow up contact was also made with Shell in the week prior to the preparation of this report. Despite the ongoing contact attempts, no information or representations have been forthcoming.

- 1.17 Upon receipt of the completed questionnaires, the responses were analysed and considered against the current LEP definitions. These definitions are also consistent with cognate legislation in the Standard LEP Instrument Order. A selection of potentially applicable land use terms were identified by technical staff, based on the information provided in the questionnaire(s), and communicated back to the landholders via registered post.
- 1.18 Upon receipt of the questionnaires the landholders were requested to review the preliminary findings made by technical staff and indicate their agreement, or otherwise with the staff findings. Where the landholders were not in agreement, they were in turn requested to provide additional information on the rationale and reasoning why. Landholders were also invited to provide further feedback and to sign and date the form and return to Council for further consideration. Some landholders also elected to engage legal representation to assist them through this component of the process. Once again, the receipt of all correspondence was formally acknowledged.

What did the stakeholders say?

- 1.19 The consultation exercise yielded interesting, and some unexpected, results. A far more accurate representation of current land use activities was able to be obtained through this process. This exercise was also invaluable in garnering an understanding of future site specific aspirations, which, at the commencement of the project, were largely undocumented. Some landholders also took the opportunity to nominate their preferred zone.
- 1.20 The contents of each respective questionnaire was progressively analysed by technical staff and a suite of fundamental land use terms (definitions) was identified for each parcel of land/precinct. The land use terms included:
- Rural industry > Agricultural produce industry
 - Transport depot
 - Warehouse
 - Truck depot
 - Rural supplies
 - Shop
 - Vehicle sales or hire premises
 - Vehicle repair station
 - Freight transport facility
 - Hardware and building supplies

- Industries (including general and light industry)
- Depots
- Vehicle body repair workshops
- Dwelling house
- Attached dwelling

1.21 The relationship of the land use terms/definitions with the existing LEP land use table(s) was investigated and further analysed in the context of the current adopted strategic framework. The current provisions of the LEP and the *LPSC Growth Management Strategy 2009* were also considered as part of this process.

What other key issues were identified in the analysis?

1.22 There are a range of potential land use conflict issues that will continue to exist regardless of whether the land is rezoned. This has largely arisen due to poor historical land use planning decisions. Examples are clearly evident in the permitted encroachment of the Graincorp facility by a residential subdivision. Such siting issues are difficult, and indeed sometimes impossible to achieve retrospectively. Notwithstanding in the case of the Graincorp facility, Council is unaware of any history of complaint in respect to operations of this enterprise.

1.23 In respect of aspirational land uses, that is, those activities potentially undertaken in the future on certain land(s) within the study area were identified to present some unique challenges. As Councillors are aware, there has been a history of community complaint in respect to the operation of a historical trucking enterprise on R1 General Residential zoned land in Cromarty Street, Quirindi. These complaints have included, but are not limited to noise and traffic safety considerations. The operators of this enterprise are seeking to relocate their business to premises under their ownership in Centre Street. A concern of Council, for this particular business owner, is similar complaints when carrying out their operations outside normal working hours, due to the proximity to the residential area.

1.24 The management of potential future land use conflicts is a very important consideration in strategic investigations, particularly for the Centre Street precinct. It is no longer acceptable, nor is it socially, environmentally or ethically appropriate to defer consideration of these matters to future generations or to more disadvantaged segments of the community.

1.25 The community costs of failing to manage land use conflicts is both well documented and widely acknowledged. Not only are there direct impacts on business owners and residents, there are also considerable and ongoing financial impacts for Council. Consequently, such conflicts should be progressively

identified and addressed wherever practicable. In this regard, some key recommendations in respect of the management of potential future land use conflicts have been developed. These are contained in a latter section of this document. These considerations fall outside of any future LEP amendment process, but are considered to be very important in achieving long term success.

- 1.26 A premises, located within the Centre Street precinct was identified as being a heritage item. Whilst the management of local heritage does not present significant challenges, it does, however, attract higher levels of scrutiny at the LEP stage. Consultation with the NSW Office of Heritage is also generally appropriate.
- 1.27 Upon review of the *LPSC Growth Management Strategy 2009* and the LEP 2011, it was identified that a strengthening of the industrial land hierarchy is appropriate. Under the LEP there are two (2) primary land use zones:
- IN1 General Industrial; and
 - IN2 Light Industrial.

Page 188 of the adopted *Growth Management Strategy* provides the following information in respect to industrial development, inter alia:

"The land to the south is the most appropriate for an expansion of the industrial zone. The reasons for this are as follows:

- *Located at the southern extremity of the urban area;*
- *Good access to Kamilaroi Highway via South Street;*
- *Existing large industrial uses such as sawmill being developed;*
- *Mixed residential and industrial uses to the immediate north of the land;*
- *Land to the north of the town is surrounded by residential development;*

There is land to the north east of the existing southern industrial zone which is currently vacant and near to the railway line. It would be more appropriate to change the zoning of this land as light industrial rather than residential. It will also help to reduce potential conflict between residential and industrial development because the land adjoining to the north is flood prone which means it has larger lots as well as being a mixture of light industrial and residential style uses.

- 1.28 It is clear and largely undisputed from the contents of the *Growth Management Strategy 2009* that the primary focus for future industrial development should be the industrial area to the south of Quirindi.

1.29 Notwithstanding the contents of 1.27 above, the existence and long term application of a Development Control Plan (DCP) for the Township of Quirindi has created widespread confusion regarding the hierarchy of land use planning controls. The DCP for Quirindi Township appears to have been originally endorsed by the former Quirindi Shire Council in 1991.

The DCP was made redundant by the coming into force of both the Liverpool Plains LEP in 2011 and consolidating DCP in 2012.

1.30 The *Environmental Planning and Assessment Act 1979* and corresponding *Regulation 2000* set out the hierarchy of planning controls. As detailed in Planning Circular No. PS 13-003 dated 18 March 2013 (copies available upon request), the provisions of DCPs are largely advisory in nature and thus they are essentially guidance documents.

Given the inherent complexity of the NSW planning framework, the role of DCPs is somewhat maligned. Ongoing confusion exists within the community in regard to the status of these documents. This can, in part, be progressively resolved through community education and awareness-raising. The operation of the current NSW Planning statutory hierarchy is detailed in Plate 1 below.

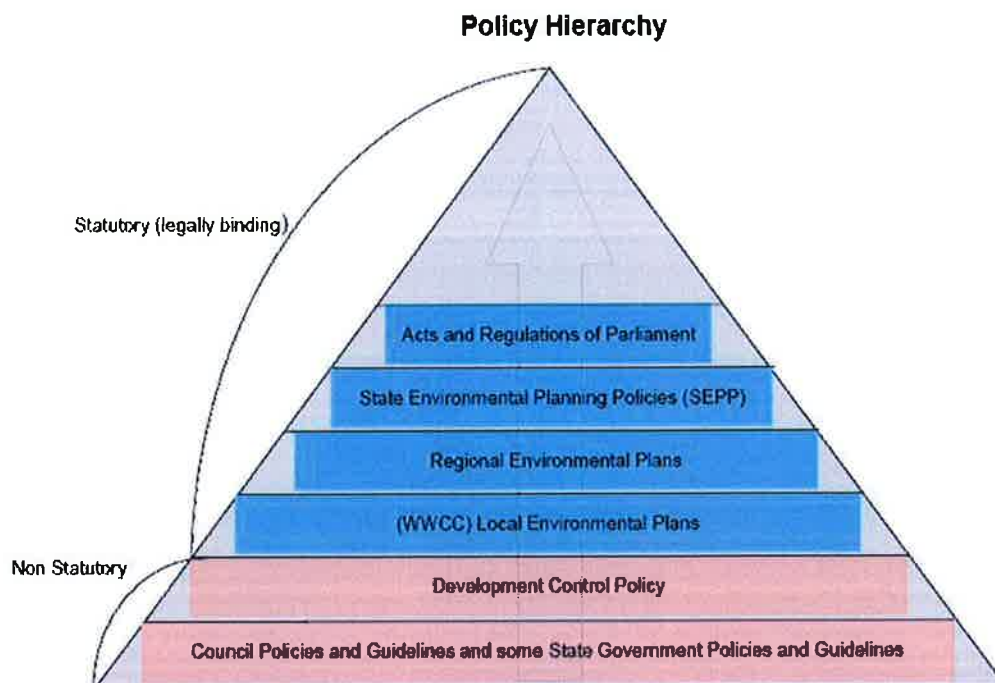


Plate 1: NSW Planning Hierarchy

Source: Wagga Wagga City Council Website (accessed April 2014).

- 1.31 In respect of the Centre Street precinct, from a historical perspective, the land in this locality was zoned 2(V) Village under the Quirindi LEP 1991. This zone was a very flexible and 'open zone' which permitted an extensive array of land uses. Overlaying the 2(V) zone was a DCP referred to in 1.29.
- 1.32 There is ongoing focus by segments of the community on the role and function of the 1991 DCP. Whilst its contents are of interest from a historical development perspective, and, indeed it is a valuable tool in gaining an understanding of prevailing land use patterns, the contents of this document are no longer relevant, nor are they applicable. It is considered counterproductive to continue to focus on the historical land use framework. Planning mechanisms have moved on considerably since 1991. Almost 25 years have passed since the original inception of the DCP. As also detailed in 1.29, this DCP was also formally rescinded in 2012 with the adoption of the (consolidating) *LPSC DCP 2012*.
- 1.33 Notwithstanding the contents of items 1.27 – 1.31 above, it is clearly evident that there is community desire to achieve mutually beneficial outcomes in respect of the local land use planning framework. Accordingly, this document seeks to identify a potential path forward for the key stakeholders and to balance a range of community interests. It is also considered imperative to achieve consistency with the principles of the adopted *Growth Management Strategy 2009* given the absence of an alternative and suitably detailed and robust strategic framework.

What are the key recommendations?

1.34 Following the completion of the strategic review process, as described in the preceding sections, a range of potential options have been identified. From this process, there are essentially two (2) available paths:

- (a) **Not Proceed:** abandon the project at this stage and not proceed to a Planning Proposal to amend the LEP.
- (b) **Targeted site specific rezoning:** undertake an LEP amendment in accordance with the recommendations contained within Table 1 below. Adjust existing land use Table(s), as required, to permit nominated land use types:

Precinct Name	Business Name	Recommended Zone	Identified land uses Permissible*? <i>*NB: Current & Future</i>
Whittaker Street	Quirindi Tyre Service	B4 Mixed Use	YES
Whittaker Street	North West Farm Machinery	B4 Mixed Use	YES
Whittaker Street	Vacant Former Shop	B4 Mixed Use	YES
Allnutt Street	Howard's Bus Services	B4 Mixed Use	YES
Centre Street	Graincorp	IN2 Light Industrial [#]	YES
Centre Street	Quirindi Engineering	IN2 Light Industrial [#]	YES
Centre Street	Harrison's Smash Repairs	IN2 Light Industrial [#]	YES
Centre Street	McGuckin's Truck Services	IN2 Light Industrial [#]	YES
Centre Street	Residence	Retain R1 - use flexible boundaries clause 5.3 to allow flexibility to seek IN2 Light industrial uses at a later stage.	YES

Important Note: Refer to Annexure A for a copy of the recommended revised land use table for Zone IN2 – Light Industrial.

1.35 It is considered that there is sufficient strategic basis and justification to proceed with the recommendations of item 1.34(b), as detailed in Table 1 above. The rationale for this decision making is presented in the following section.

Why is this approach being recommended?

1.36 In respect of the Centre Street precinct, as detailed in item 1.27 of this Report a two tier industrial land use hierarchy currently exists. Whilst this hierarchy is performing generally very well, following the review process it is considered beneficial to reinforce and clarify the function of each zone within the context of the local planning system. In coming to this conclusion, a review of Council LEPs within the broader New England North West Region was also undertaken. From this exercise it was noted that the adjoining Tamworth Regional and Gunnedah Councils do not adopt a IN2 zoning framework, opting instead for other industrial

zone selections from the suite of four (4) available under the Standard Instrument. Notwithstanding, the very recent Armidale LEP 2012 has successfully incorporated an IN2 Light Industrial zone permitting a range of land uses commensurate with those sought by the landholders. A review of available NSW Department of Planning and Infrastructure Practice Notes in respect of land use designations was also undertaken. No impediments were identified from a review of available advisory literature.

- 1.37 As detailed in Annexure 'A' in this Report, it is proposed to modify the structure of the IN2 Light Industry table to diversify the range of land uses, whilst maintaining a clear hierarchy of controls. For example, "*Sex services premises*", "*Restricted premises*" and "*Heavy industries*", are all types of land uses that would be highly inappropriate in proximity to residential development. It should be noted that if the revised IN2 zone framework was adopted, these would not be permissible. Notwithstanding, the IN2 Zone is proposed to remain an 'open zone' permitting a range of additional land uses (ie "*Any other development not specified in item 2 or 4*").
- 1.38 The IN2 zone contains a key objective '*To minimise any adverse effect of industry on other land uses*'. Importantly, the final objective '*To support and protect industrial land for industrial uses*' recognises the importance of the local businesses as employment lands, a key message communicated consistently throughout the stakeholder consultation process to date.
- 1.39 As is articulated in objective 3 of the IN2 Zone table, the application of an IN2 framework is inherently suitable, and commonly applied, in situations where there proximity to residential development. Such an approach is consistent with current best practice.
- 1.40 The proposed IN2 Zone within the Centre Street precinct will also be adjacent to an existing 'pocket' of IN2 land (with frontage to Werris Creek Road/Hawker Street and Centre Street). The existence of this pocket of IN2 land assists in the justification of a rezoning. It could also be argued that it is generally consistent with the recommendations of the *Growth Management Strategy 2009*. This will assist in adding 'weight' to an argument for a rezoning and assist in quantification of the merits of the proposal and communication of the projected community benefits as part of any future Planning Proposal. Council is also able to point towards a successful recent similar approach to the management of industrial land uses within the New England North West Region in the *Armidale LEP 2012*.
- 1.41 The proposed rezoning framework, as detailed in Table 1 of this Report, has been broadly discussed with representatives of the NSW Department of Planning and Infrastructure. No immediate impediments or 'show stoppers' to the suggested approach have been identified. It should be noted, however, that such preliminary guidance provided largely in good faith does not guarantee a favourable outcome. A process must be followed and this is detailed in Items 1.47-1.49 of this Report respectively.
- 1.42 An IN1 General Industrial zone is not considered appropriate for the Centre Street precinct for the reasons detailed in 1.27, 1.36 and 1.37 of this Report. If the

landholders are dissatisfied with the solutions provided in Table 1 of this Options Report, it is recommended that the landholders engage independent technical assistance in the form of a qualified Planning Practitioner. This will need to be undertaken at the landholder's own cost and volition. Consequently, if this is the preferred approach, Option 1.34(a) should be considered by Council. It is important to note that Council's technical staff are currently unsupportive of an IN1 Industrial zoning for this site. The details of which have been previously articulated and most importantly, given the existence of other legitimate and more suitable viable options. On this basis, Council's technical staff would be unwilling to prepare a Planning Proposal requesting a rezoning to IN1 Industrial.

- 1.43 In respect of the Allnutt and Whittaker Street precincts, it is considered that the proposed B4 Mixed Use zones would suitably resolve current landholder concerns. All of the identified land uses, current and future, identified during the stakeholder consultation processes would be permissible within the B4 Mixed Use Zone. This zone is also consistent with accepted approaches applied for fringe CBD lands in Henry Street and Station Street, and, for the commercial cluster in Loder Street.
- 1.44 If the Centre Street precinct is not pursued, the B4 Mixed Use properties may still proceed as part of a proposed future LEP amendment and a Planning Proposal will be prepared by Council's technical staff.
- 1.45 Extensive consideration has been given to the residential premises located in Centre Street under the ownership of Stimson. Whilst this land has not been identified to be rezoned, if the Centre Street precinct does in fact proceed to be rezoned to IN2 Light Industrial, this land parcel will directly benefit. In accordance with clause 5.3 of the LEP: *Development Near Zone Boundaries*, the landholder is able to benefit from the operation of this clause for a total distance of 50m:

5.3 Development near zone boundaries

- (1) *The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.*
- (2) *This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 50 metres.*
- (3) *This clause does not apply to:*
- (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or*
 - (b) land within the coastal zone, or*
 - (c) land proposed to be developed for the purpose of sex services or restricted premises.*
- (4) *Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to*

development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

- (a) the development is not inconsistent with the objectives for development in both zones, and*
- (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

(5) This clause does not prescribe a development standard that may be varied under this Plan.

- 1.46 It is considered that the application of the flexible zone boundaries clause is a useful approach to managing development in these types of precincts. To avoid edge effects and future land use creep, careful consideration should be given to the location of these boundaries. It was noted in the context of the Centre Street study area that a large parcel of undeveloped residential-zoned land is currently available at the southern edge of the precinct.

What is the process for an LEP amendment (rezoning)?

- 1.47 The process for LEP amendments, including rezoning, is set out under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. These two (2) principal pieces of legislation are supported by a range of Practice Notes and Best Practice Guidelines. These documents have all been formulated and released by the NSW Department of Planning and Infrastructure.
- 1.48 Council is legally obliged to follow certain procedural steps in order to undertake LEP amendments. These are detailed in the applicable legislation, and, in the relevant support guidelines.
- 1.49 LEP amendments, particularly the rezoning of land, are often complex and lengthy. This is due to the issues surrounding rezoning(s) which can be site specific, and, given the current regulatory framework. Council must also exercise due diligence in these processes as essentially, legislation is being formulated.
- 1.50 It is an objective of the current planning system that LEPs be more responsive to local needs. LEPs should also be regularly reviewed to ensure that they reflect changing community needs and expectations.
- 1.51 It is important to recognise and to highlight that Council's Planning Practitioners are responsible for acting in the **broader community interest**. A range of factors and consequences must be considered as part of this process, in addition to the interests of a range of stakeholders. This process extends beyond only the affected landholders.
- 1.52 If the IN2 Light Industrial land use table is amended, this will affect all properties currently zoned IN2. Notification of all landholders within LPSC currently zoned IN2 would be appropriate.

PART 2 – OTHER MATTERS FOR CONSIDERATION

Potential issues that may be raised by the community: land use conflict

- 2.1 In the commensurate strategic analysis, it was established that there is potential for future land use conflict with existing and future proposed residential development, particularly in the Centre Street precinct. Types of potentially negative impacts include, but are not limited to: dust, noise, traffic movements particularly those by heavy vehicles (including B-Double trucks), and, rail movements.
- 2.2 Should Council elect to rezone lands in the Centre Street precinct, future consideration should be given to additional mechanisms available to manage inevitable future land use conflict. Such mechanisms available are not limited or constrained solely to the business owners and may include future engineering solutions (for example modification or expansion of the local road network), managed exit strategies (such as supported land swaps), or development and progressive implementation of future planning controls in respect of residential development.
- 2.3 In respect of engineering solutions, further investigation may be beneficial in terms of options for the management of local traffic impacts, particularly given that parts of Centre Street are B-Double designated. For example, alternate ingress and egress opportunities may be available for McGuckin's Trucks via the Graincorp premises. This site access is already well established and permits direct highway access via a relatively short section of public road. Residential development to the north within the Morning View Estate is already well screened by significant timber panelled fencing and associated landscaping. Such an appropriate would negate the need for truck movements along Centre Street, particularly the traversing of residential properties. It is recognised that suitable legal access arrangements would need to be put in place with Graincorp by the landholders. Council would not be a party to these arrangements. Furthermore, similar separation treatments should be put in place between the two facilities with respect to any future stages of the Morning View subdivision.
- 2.4 Council may wish to consider opportunities for an exit (relocation) strategy for the existing trucking operations on Centre Street. Council is aware that there has been a history of complaint in respect of the operation of this enterprise in Cromarty Street. It would be therefore remiss to ignore any potential future impacts in respect of the Centre Street precinct, which faces some similar challenges.

Such mechanisms may include a 'land swap' with current LPSC owned land located within the Quirindi Industrial Estate. Land within the industrial estate would be much more suited to such a transport enterprise. This approach would also alleviate any future uncertainty in respect to the future site-specific operations. Where residential/industrial encroachment occurs, this becomes increasingly difficult to manage. A possible solution is to investigate

opportunities for relocation in close collaboration and partnership with this particular landholder.

- 2.5 The projected future encroachment of future residential development in respect of the Morning View subdivision to the current Graincorp facility warrants further consideration. Council may wish to investigate opportunities for the introduction of future site-specific development controls in respect of the Morning View Estate with associated requirements for acoustic treatments in new residential development. Such controls may, for example, be incorporated in the LPSC Development Control Plan on a site-specific (precinct) basis.

If Council is amenable to such an approach, it would be appropriate for the DCP amendment to be undertaken in consultation with both Graincorp and the current landholder of the Morning View Estate.

PART 3 – KEY RECOMMENDATIONS

- 3.1 That Council proceed to the preparation of a Planning Proposal in line with the recommendations detailed in item 1.34 of this *Issues and Options Report* (Option B – targeted rezoning).
- 3.2 That a draft Planning Proposal be submitted to Council for consideration at the May 2014 Ordinary Meeting of Council, or, authorisation be provided via delegated authority to proceed immediately to the lodgement of the draft Planning Proposal to LEP Gateway (NSW Department of Planning and Infrastructure).
- 3.3 Council investigate opportunities for management of identified future land use conflict risks as identified in Part 2 of this *Issues and Options Report*.
- 3.4 Council continues to keep landholders regularly advised and informed as to progress.

Annexure 'A' – New IN2 Land Use Table

Zone IN2 Light Industrial (NEW FRAMEWORK – DRAFT ONLY)

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations; Roads

3 Permitted with consent

Bee keeping; Depots; Garden centres; Hardware and building supplies; Heliports; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Liquid fuel depots; Neighbourhood shops; Plant nurseries; Rural supplies; Sewage reticulation systems; Shops; Takeaway food and drink premises; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource transfer stations; Water recycling facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Dairies (pasture-based); Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Heavy industries; Home-based child care; Home businesses; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Sewerage systems; Sex services premises; Tourist and visitor accommodation; waste disposal facilities; Water recreation structures; Water treatment facilities; Wharf or boating facilities.

Annexure 'B' – New IN2 Land Use Table

Zone IN2 Light Industrial (PROPOSED NEW FRAMEWORK)

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home occupations; Roads

3 Permitted with consent

Agricultural produce industry; Bee keeping; Depots; Garden centres; **General industry**; Hardware and building supplies; Heliports; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Liquid fuel depots; Neighbourhood shops; Plant nurseries; **Rural industry**; Rural supplies; Sewage reticulation systems; Shops; Takeaway food and drink premises; Timber yards; **Transport depot**; **Truck depot**; **Vehicle body repair workshop**; **Vehicle repair station**; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource transfer stations; Water recycling facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Dairies (pasture-based); Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Heavy industries; Home-based child care; Home businesses; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Sewerage systems; Sex services premises; Tourist and visitor accommodation; waste disposal facilities; Water recreation structures; Water treatment facilities; Wharf or boating facilities.