

## Planning and Assessment

IRF19/6451

### Gateway determination report

<b>LGA</b>	Liverpool Plains
<b>PPA</b>	Liverpool Plains Shire Council
<b>NAME</b>	Dwelling Opportunity Amendment (3 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_LPLNS_001_00
<b>LEP TO BE AMENDED</b>	Liverpool Plains Local Environmental Plan 2011
<b>ADDRESS</b>	641 Wallabadah Road, Wallabadah NSW 578 Bulunbulun Road, Currabubula NSW 1788 Merriwa Road, Willow Tree NSW
<b>DESCRIPTION</b>	Lot 21 DP 751026 Lot 36 DP 751025 Lot 1 DP 1074257
<b>RECEIVED</b>	01/10/2019
<b>FILE NO.</b>	IRF19/6451
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to create a dwelling opportunity for Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah NSW, Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula NSW and Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree NSW in accordance with Clause 4.2A(3)(d) of the Liverpool Plains LEP 2011. This will be achieved via an amendment to Dwelling Opportunity Map – Sheets DWE\_004 and DWE\_005, and the creation of DWE\_003.

### 1.2 Site description

This application relates to the following properties:

- Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah NSW. Evidence of a historic dwelling house, now demolished, is present on the subject land. Inclusion of the property on a dwelling opportunity map will enable construction of a new, replacement dwelling;
- Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula NSW. Evidence of a historic dwelling house, now demolished, is present on the subject land. Inclusion of the property on a dwelling opportunity map will enable construction of a new, replacement dwelling;

- Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree NSW. This allotment is improved with an existing building that was previously utilised as a church. Inclusion of this property on a dwelling opportunity map will enable lodgement of a development application for a change of use to allow occupation of the building for residential purposes.

The capacity of the abovementioned properties to accommodate residential land uses has been assessed by Council, having regard to matters such as traffic and access, potential land use conflict, fragmentation of prime agricultural land, environmental constraints (bushfire, flooding and ecology) and infrastructure impacts. Adequate area exists on each of the allotments to accommodate on site water, sewer and power servicing arrangements.

The subject lands are detailed in Figures 1 – 3:

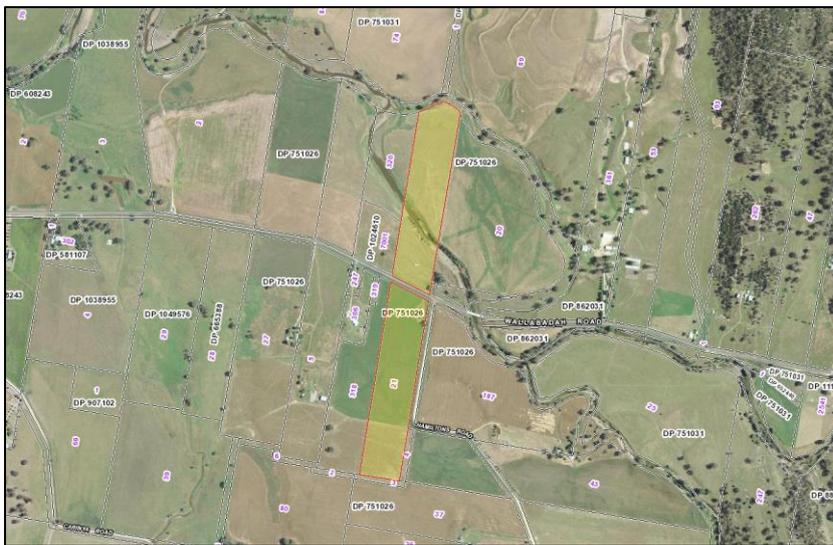


Figure 1 - Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah



Figure 2 - Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula



Figure 3 - Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree

### 1.3 Existing planning controls

The following planning controls apply to the subject lands, pursuant to the provisions of the Liverpool Plains LEP 2011:

- Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah NSW is zoned RU1 Primary Production, with a minimum lot size of 200 hectares north of Wallabadah Road and 40 hectares south of Wallabadah Road (Figures 4 & 5);
- Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula NSW is zoned RU1 Primary Production, with a minimum lot size of 200 hectares (Figures 6 & 7); and
- Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree NSW is zoned RU1 Primary Production, with a minimum lot size of 200 hectares (Figures 8 & 9).

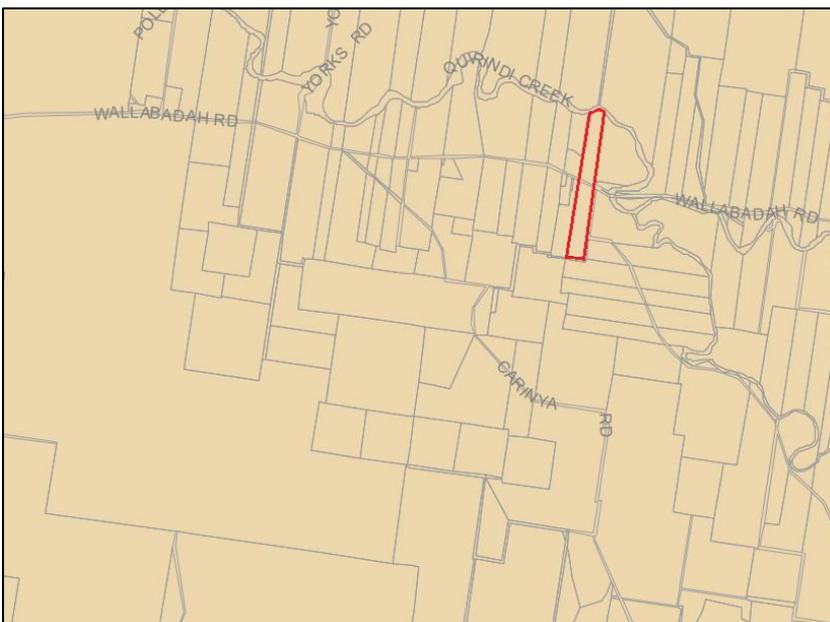


Figure 4 - Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah - Land Zoning (RU1)

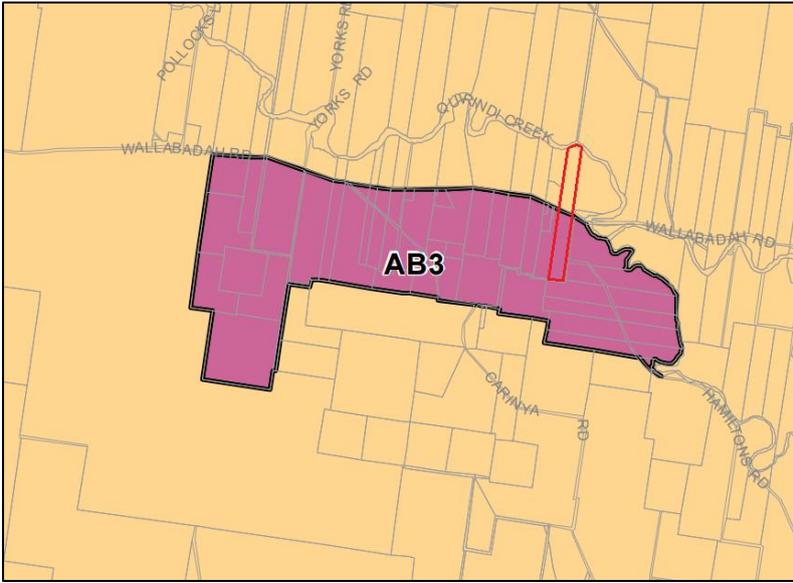


Figure 5 - Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah - Minimum Lot Size (200ha & 40ha)

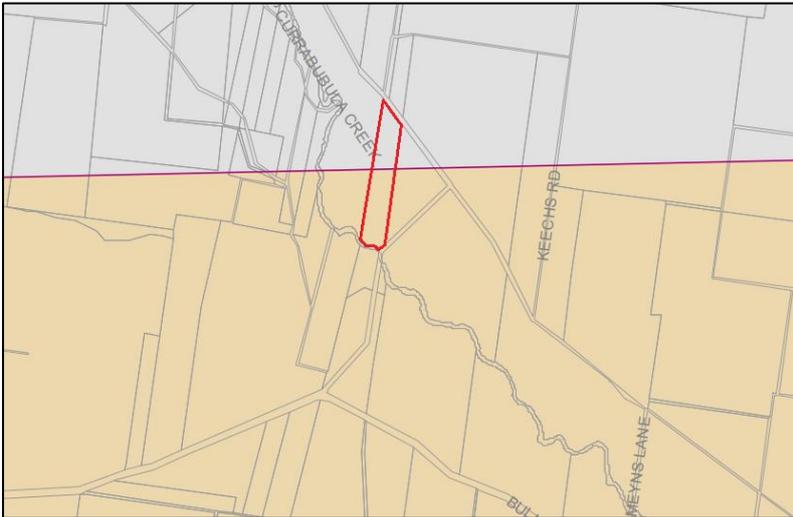


Figure 6 - Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula - Land Zoning (RU1)

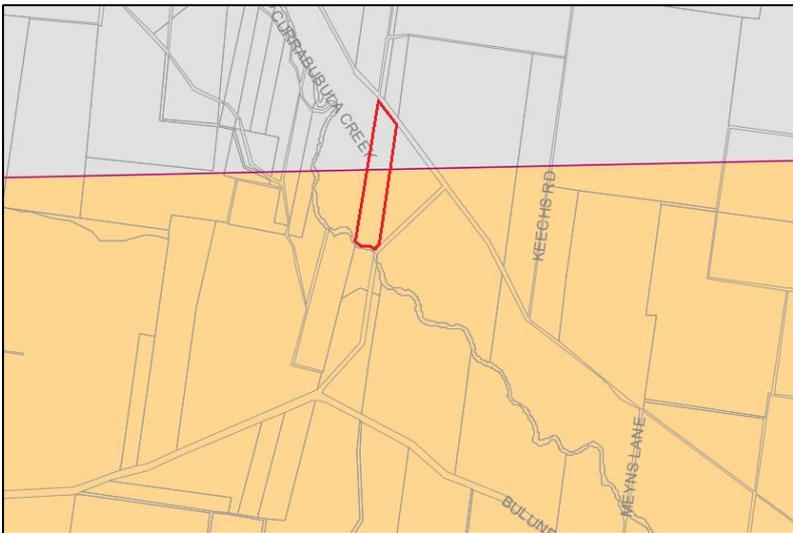


Figure 7 - Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula - Minimum Lot Size (200ha)



Figure 8 - Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree - Land Zoning (RU1)

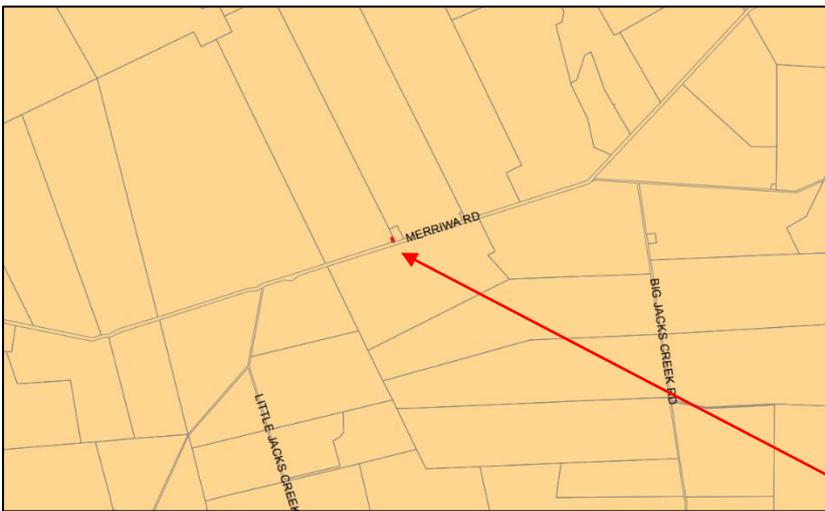


Figure 9 - Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree - Minimum Lot Size (200ha)

#### 1.4 Surrounding area

As detailed by Figures 1 – 9 of this report, each of the subject lands are located in a rural area improved with scattered dwelling houses and agricultural land uses. The allotments are considered suitable for residential development, with any potential conflicts to be addressed at the development application stage.

#### 1.5 Summary of recommendation

It is considered that the proposal has merit to proceed to Gateway. It is recommended that the planning proposal proceed subject to conditions for the following reasons:

1. in relation to 641 Wallabadah Road, Wallabadah and 578 Bulunbulun Road, Currabubula, residential development is consistent with the historic use of the land;
2. identification of 1788 Merriwa Road, Willow Tree on a dwelling opportunity map will allow practical use of an existing building, with residential development being the highest and best use of the property;

3. the proposal is not inconsistent with the New England North West Regional Plan 2036 and Council's strategic framework.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The statement of objectives clearly describes the intention of the planning proposal. The proposal seeks to amend the Dwelling Opportunity Map that accompanies the Liverpool Plains LEP 2011 to enable the efficient use of land.

### **2.2 Explanation of provisions**

The submitted planning proposal adequately details the proposed amendments to the Liverpool Plains LEP 2011. There are no amendments to the written document required prior to community consultation.

### **2.3 Mapping**

The planning proposal seeks to amend Dwelling Opportunity Map – Sheets DWE\_004 and DWE\_005 and create DWE\_003. Prior to public exhibition, the maps included as Attachment A to the planning proposal are required to be updated to correctly refer to relevant sheet, as follows:

- Map 1 should be titled 'Dwelling Opportunity Map – Sheet DWE\_004'; and
- Map 3 should be titled 'Dwelling Opportunity Map – Sheet DWE\_003 & DWE\_004'.

With the exception of the above, the maps are considered suitable for exhibition purposes.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The subject planning proposal seeks to include three (3) properties on the Dwelling Opportunity Map that accompanies the Liverpool Plains LEP 2011. The proposal is not the result of a strategic study or report. Rather, it is an outcome of an Expression of Interest process undertaken by Council as part of their LEP review. It is considered that the proposal is the best means for achieving the intended outcomes.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 State**

The planning proposal does not contain any matters of state or regional significance and is not inconsistent with the Premier's Priorities currently being actioned by the State Government.

### **4.2 Regional / District**

The planning proposal has been assessed against the provisions of the New England North West Regional Plan 2036. The proposed amendments are considered to be consistent with the intent and direction of the Plan. There are no changes in policy which are considered inconsistent with matters of regional environmental planning.

### 4.3 Local

The planning proposal is consistent with the objectives of the adopted Liverpool Plains Growth Management Strategy (2009). The southern portion of Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah NSW is identified in Maps 8.10 & 8.11 of the Strategy (Figure 10 of this report) as being within a 'Rural Living' designation. The creation of a dwelling entitlement on this land is addressed in the Strategy and is therefore considered appropriate.

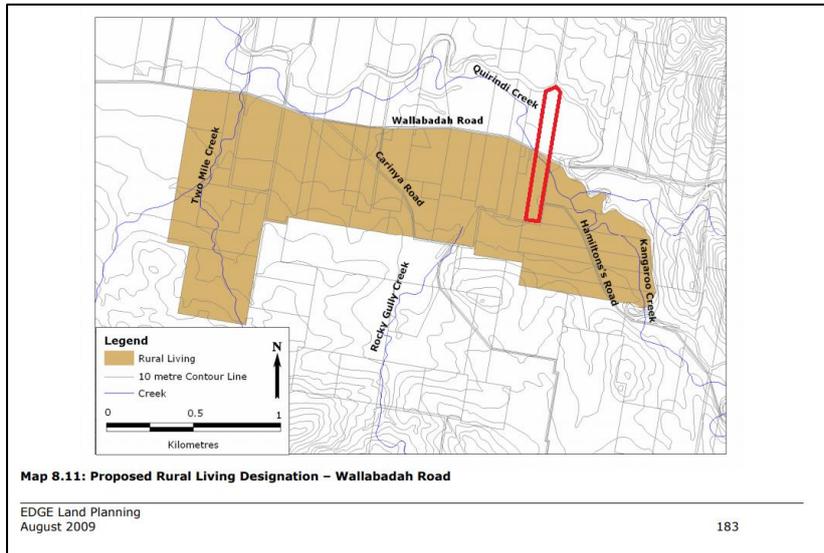


Figure 10 – Identification of Lot 21 DP 751026, 641 Wallabadah Road, Wallabadah in the Liverpool Plains Growth Management Strategy (2009)

While inclusion of the Lot 36 DP 751025, 578 Bulunbulun Road, Currabubula NSW and Lot 1 DP 1074257, 1788 Merriwa Road, Willow Tree NSW on a Dwelling Opportunity Map is not specifically addressed by the Growth Management Strategy the proposal is consistent with the overarching themes. The creation of two additional dwelling entitlements via this means is considered to be an appropriate planning outcome considering the historic use of the land as well as existing improvements. Identification of the allotments on the Dwelling Opportunity Map will not facilitate future subdivision and is therefore not expected to lead to fragmentation of rural land.

### 4.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all applicable section 9.1 Directions and SEPPs with the exception of the following:

#### 4.4 Planning for Bushfire Protection

The properties subject to this planning proposal are all classified as bushfire prone land. This direction requires Council as the relevant Planning Authority to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred, consistency of the proposal with this direction will remain unresolved.

### 4.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all applicable SEPPs including State Environmental Planning Policy No. 44 – Koala Habitat Protection and State Environmental Planning Policy (Primary Production and Rural Development) 2019.

Consideration of historic land uses, having regard to the provisions of State Environmental Planning Policy No. 55 – Remediation of Land, has been undertaken by Council. The allotments are not listed in Council’s contaminated land register or the NSW Environmental Protection Authority’s contaminated land record, and there are no known historic land uses that would deem the land unsuitable for residential purposes.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

Positive social impacts are expected as a result of the planning proposal through the provision of three additional dwelling entitlements in the Shire. It is not anticipated that any detrimental social impacts will arise as a result of the proposal.

### **5.2 Economic**

Considering the minor nature of the proposal, it is unlikely that its approval will create any negative economic impacts. Adequate area exists on each of the allotments to accommodate on site water, sewer and power servicing arrangements.

### **5.3 Environmental**

The capacity of the subject properties to accommodate residential land uses has been assessed by Council, having regard to matters such as traffic and access, potential land use conflict, fragmentation of prime agricultural land and environmental constraints (bushfire, flooding and ecology).

### **5.4 Heritage**

No adverse impact to Aboriginal cultural heritage is anticipated as there are no known items present on the subject lands. Furthermore, Schedule 5 of the Liverpool Plains LEP 2011 does not identify any items of environmental heritage on the subject allotments.

### **5.5 Infrastructure**

The provision and funding of State infrastructure is not necessary for this proposal.

## **6. CONSULTATION**

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### **6.1 Community**

The proposal meets the requirements to be a low impact proposal under the *Guide to Preparing Local Environmental Plans*, and as such only requires a 14-day consultation. However, Council has nominated a 28-day public exhibition period in the planning proposal. There is no impediment to Council electing to undertake a longer community consultation period than the mandatory 14 days.

### **6.2 Agencies**

Council has not proposed consultation with any specific agencies. Given the nature of the proposed amendment, consultation with the following agencies is considered appropriate:

- NSW Rural Fire Service; and
- Department of Planning, Industry and Environment (Agriculture).

## **7. TIME FRAME**

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The planning proposal includes a project time line which indicates a completion time of six months. To ensure Council has adequate time to complete the required consultation, it is recommended that a nine-month timeframe be specified.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan-making authority in this instance. The proposal is consistent, or justifiably inconsistent, with the State, regional and local planning framework and deals primarily with matters of local significance. It is considered appropriate that Council be provided authorisation to act as the local plan-making authority for this matter.

## **9. CONCLUSION**

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The preparation of the dwelling opportunity planning proposal is supported as it:

- meets the adequacy criteria by providing: appropriate objectives and intended outcomes; a suitable explanation of the provisions and justification for the proposal; appropriate community consultation; a suitable project timeline; and an evaluation for the delegation of plan making functions;
- is consistent with all relevant 9.1 directions and SEPPs apart from 4.4 Planning for Bushfire Protection (which can only be determined after consultation with the NSW Rural Fire Service);
- is consistent with the New England North West Regional Plan 2036;
- is consistent with the local planning framework; and
- is unlikely to have any detrimental impact on the socio-economic welfare of the Local Government Area.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister 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 14 days.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service; and
  - Department of Planning, Industry and Environment (Agriculture).
3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.

5. Prior to public exhibition, the maps included as Attachment A to the planning proposal shall be amended as follows:
- Map 1 should be titled 'Dwelling Opportunity Map – Sheet DWE\_004'; and
  - Map 3 should be titled 'Dwelling Opportunity Map – Sheet DWE\_003 & DWE\_004'.



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14-10-2019

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