

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

Proposal Title : **Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree**

Proposal Summary : **This Planning Proposal seeks to amend the Liverpool Plains LEP 2011 by including Lot 3, DP 1121681, New England Highway, Willow Tree in Schedule 1 Additional Permitted Uses for the purpose of a service station.**

PP Number : **PP_2015_LPLNS_001_00** Dop File No : **15/13297**

Proposal Details

Date Planning Proposal Received : **27-Aug-2015** LGA covered : **Liverpool Plains**

Region : **Northern** RPA : **Liverpool Plains Shire Council**

State Electorate : **TAMWORTH** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **1172 New England Highway**

Suburb : City : **Willow Tree** Postcode :

Land Parcel : **Lot 3, DP 1121681**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**

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RPA Contact Details

Contact Name : **Kate Campbell**

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266406604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **N/A** Consistent with Strategy : **Yes**

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **The subject land is located 1km south of Willow Tree on the New England Highway. It currently accommodates a truck depot (Howard's Haulage) and a grain handling facility, both of which are approved uses. The land is zoned RU1 Primary Production and is approximately 8ha in area. Service stations are a prohibited land use in the RU1 zone of the Liverpool Plains LEP 2011.**

The owners seek to construct a 24hr self-service 'high flow' diesel fuel delivery system, as opposed to a more traditional 'manned' service station. It will incorporate above ground storage tanks and is anticipated to service the trucking industry rather than the travelling public, although they will not be excluded.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal. The proposal seeks to amend the Liverpool Plains LEP 2011 to permit a service station on Lot 3, DP 1121681.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the Planning Proposal. It is proposed to include service station in Schedule 1 - Additional Permitted Uses of Liverpool Plains LEP 2011 on land described as Lot 3, DP 1121681.**

The Planning Proposal does not address the alternative option of permitting service

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

stations with consent in the RU1 Primary Production Zone across the whole LGA. It is understood that this approach is not considered by Council to be appropriate as it could lead to the proliferation of service stations along classified roads and local roads where they may adversely impact upon the safety and efficiency of those roads. In addition, identifying sites, such as the subject land, where service stations are an appropriate land use to service the travelling public, transport industry and Shire's economy is a more favoured approach for Council to undertake. This is considered appropriate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :
1.2 Rural Zones
1.5 Rural Lands
* May need the Director General's agreement
6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?
SEPP No 33—Hazardous and Offensive Development
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 64—Advertising and Signage
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :
An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :
The Planning Proposal includes appropriate location plans and extracts from the LEP maps showing the current land zoning and minimum lot size.

Council proposes to introduce a new map sheet into the LEP that shows the additional permitted uses. A draft LEP map is included. A revised map that complies with the Department's 'Standard Technical Requirements for LEP Maps' will need to be prepared prior to the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :
The Planning Proposal recommends a 14 day consultation period including direct notification of the owners of adjoining lands. This consultation period and approach is considered appropriate given the location of the site outside the village of Willow Tree and the similar land uses that currently occur on the site.

The proponent has already contacted the NSW Roads and Maritime Service (RMS) in relation to this proposal. RMS has confirmed, in writing, that they have no objection in principle to the additional use on the site provided that it can be demonstrated that the vehicle movements generated by the overall development (truck depot, grain handling and service station) would not adversely impact upon the safety and efficiency of the classified road. No further consultation in regards to this LEP Amendment is required with the RMS. Further consultation will be required at the development application

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

stage to ensure the RMS is satisfied that the vehicle movements generated would not adversely impact upon the safety and efficiency of the classified road.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

The Planning Proposal satisfies the adequacy criteria by;

- 1. Providing appropriate objectives and intended outcomes.**
- 2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.**
- 3. Providing an adequate justification for the proposal.**
- 4. Outlining a proposed community consultation program.**
- 5. Advising that Council seeks delegation to make the plan in this instance.**

Council has requested a Written Authorisation to Exercise Delegation of the Minister's powers under s59 of the Environmental Planning and Assessment Act 1979 for this matter. It is considered appropriate that an authorisation be granted to Council as the proposal is essentially a local planning issue.

A project time line is provided with the Planning Proposal indicating completion by November 2015. This would appear to be an optimistic timeframe and if a Gateway Determination is granted, a 6 month period to complete the Planning Proposal is considered appropriate. This will not prevent Council from completing the LEP amendment earlier if they achieve their proposed timeframe.

It is considered that the Planning Proposal is not currently clear in its description of the proposed service station facility that is being proposed. There is potential that the community may not be fully aware that the proposed facility will be a 24hr self-service 'high flow' diesel fuel delivery system, as opposed to a more traditional 'manned' service station. It is recommended that prior to community consultation that the Planning Proposal be updated to clearly identify the scale of the service station proposed on the site.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Liverpool Plains LEP 2011 was made on 9 December 2011.

Assessment Criteria

Need for planning proposal :

This Planning Proposal is not the result of a strategic study or report.

The owners of the land have requested Council amend the LEP to facilitate this development after being approached by Park Petroleum to install the above ground fuel service facility on the site.

The site has existing access to the New England Highway via a 24m bitumen sealed driveway and it is proposed to utilise this entry and exit point. The access point is currently adequate for the existing uses on the site. Any upgrade to the access point will

be determined by the RMS and Council at the development application stage.

No traffic study has been undertaken into the potential impact of this development on the safety and efficiency of the New England Highway. However, information from the applicant states there is a deceleration lane and turning lane facilitating entry and exit from the site. Heavy vehicle traffic movements currently occur from the site 24 hour per day 7 days per week at a rate of approximately 8 to 10 per 24 hour period.

The applicant has also advised that they expect a maximum of an additional 6 heavy vehicle movements per hour during peak periods and nil movements in off peak times. The number of traffic movements will depend on fuel prices and drivers willingness to stop for fuel at a point where other facilities, such as refreshments, are not available.

It is considered that due to the current use of the site and the existing heavy vehicle movements from the site that additional traffic studies are not required at this stage. Further study or reports into how the traffic movements will affect the operation of the New England Highway can appropriately be done at the development application stage.

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

Consistency with strategic planning framework :

No Regional Strategies apply to the Liverpool Plains Local Government Area.

The New England North West Strategic Regional Land Use Plan applies to the site. The Planning Proposal is considered to be consistent with the provisions of the Plan.

The Liverpool Plains Growth Management Strategy was approved by the Director-General in 2009. It does not specifically address transport sector growth in the Willow Tree area but does acknowledge the role of transport services to the Shire's economy. It is considered this Planning Proposal is consistent with the general themes of the Growth Management Strategy.

The Planning Proposal is considered to be consistent with all the relevant State Environmental Planning Policies including SEPP 33 Hazardous and Offensive Industries, SEPP 44 Koala Habitat Protection, SEPP 55 Remediation of Land, SEPP 64 Advertising and Signage, SEPP Infrastructure and SEPP Rural Lands.

The following s117 Directions are applicable to the Planning Proposal. As discussed below, the proposal is either consistent or justifiably inconsistent with the relevant Directions.

1.2 Rural Zones

This Direction applies to this Planning Proposal as it contains provisions that will increase the permissible density on land within a rural zone. It is considered that the inconsistency with this direction is of minor significance due to the size of the land (8ha), the current land uses on the site (truck depot and grain handling facility) and the site not being used for agriculture. This proposal will not have an impact on the achievement of the objective of the direction, being protecting the agricultural production value of rural land.

It is considered that the inconsistency with this direction is of minor significance.

1.5 Rural Lands

This Direction applies to this Planning Proposal as it affects land within an existing rural zone. The Rural Planning Principles contained in the the SEPP (Rural Lands) have been taken into account and it is considered that the proposal is consistent with them. Due to the size of the lot and the existing approved uses, viable agricultural activities are not achievable on the site. The proposal will also promote and protect opportunities for current and potential productive and sustainable economic activities in rural areas.

6.3 Site Specific Provisions

This Direction applies to this Planning Proposal as it will allow a particular development to be carried out on the subject land. It is considered that the the Proposal is consistent with this Direction as it allows the land use (service station) on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

Environmental social economic impacts :

The subject site has been heavily disturbed and although the Planning Proposal indicates the land is devoid of significant native vegetation, aerial photographs indicate some trees remain on the lot. It is considered highly unlikely that critical habitat or threatened species will be affected by this proposal. The area proposed to be developed for the service station has previously been cleared.

The site is not flood prone nor identified as being bushfire prone.

There is no service station in Willow Tree but a roadhouse/truck stop about 1km north of the town at the junction of the Kamilaroi Hwy and the New England Highway. A service station on the subject site would operate in competition to this truck stop only in relation to diesel fuel sales as the proposed development does not currently include additional retail facilities or petrol sales. It is anticipated the development would have a minimal economic or social impact on Willow Tree.

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : 

Documents

Document File Name	DocumentType Name	Is Public
2015-08-27 Cover Letter.pdf	Proposal Covering Letter	Yes
2015-08-27 Planning Proposal.pdf	Proposal	Yes
2015-08-27 Council Report.pdf	Proposal	Yes
2015-08-27 - RMS Consultation.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
6.3 Site Specific Provisions**

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported;**
- 2. That prior to community consultation the Planning Proposal is amended to clearly indicate that the proposed service station on the site will be a 24hr self-service 'high flow' diesel fuel delivery system, as opposed to a more traditional 'manned' service station that**

Liverpool Plains LEP 2011 Amendment No 5 - Amendment to Schedule 1- Additional Permitted Uses, to permit a service station on Lot 3, DP 1121681 New England Highway, Willow Tree

offers other services such as refreshments and the like.

4. The Planning Proposal be exhibited for 14 days;

5. The Planning Proposal be completed within 6 months;

6. That an authorisation to exercise delegation be issued to Council; and

7. That the Secretary's delegate determine that the inconsistency with s117 Direction 1.2 Rural Land is justified as the matter is of minor significance;

Supporting Reasons :

This Planning Proposal seeks to permit the development of a service station on land that currently houses a truck depot and grain handling facility. It is envisaged the proposed unmanned service station will primarily serve the trucking industry however access to the public would not be restricted. This facility will increase the services available to residents in Willow Tree and the wider transport industry.

Signature:



Printed Name:

Craig Diss

Date:

4 September 2015