

Planning Proposal

Liverpool Plains Shire Council

Amendment to Schedule 1

Liverpool Plains LEP 2011

(Amendment No. 5)



August 2015

Legislative Framework

Pursuant to Section 55(1) of the *Environmental Planning and Assessment Act 1979* ('the 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 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 Amendment No. 5 to the *Liverpool Plains Local Environmental Plan* (LEP) 2011 at its meeting of 22 July 2015. The report to Council as well as the relevant resolution is included at Attachment 'A'.

Overview

The subject land has an area of approximately 8 hectares and is described as Lot 3 DP 1121681, known as 1172 New England Highway, Willow Tree. The allotment is located approximately 1 kilometre to the south of the village of Willow Tree on the New England Highway, as demonstrated by Figures 1 and 2, below. The land currently accommodates a truck depot ('Howard's Haulage'), which has been operating from the subject site for approximately thirty (30) years, as well as a grain handling facility which has been operating for approximately twenty (20) years. Access to the development site is provided by the New England Highway in the form of a bitumen sealed access node approximately 24 metres wide.

This Planning Proposal seeks the inclusion of a site specific enabling clause pursuant to Schedule 1 'Additional permitted uses' of the LEP in order to facilitate the construction of a service station with development consent on the subject land.

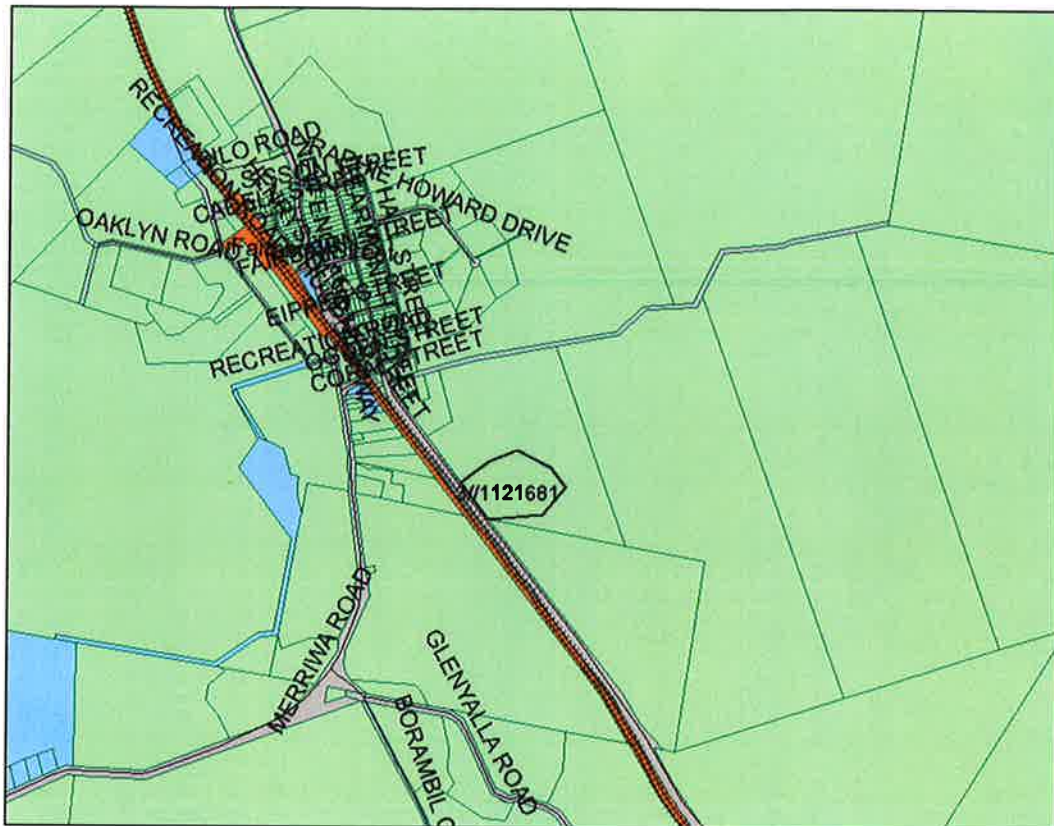


Figure 1 - Cadastral Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree



Figure 2 - Aerial Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree

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Attachments

- A. Council Report and Resolution July 2015
- B. Preliminary Comments Received from NSW RMS

Part 1 – Objectives or Intended Outcomes

This Planning Proposal seeks the inclusion of a site specific enabling clause pursuant to Schedule 1 'Additional permitted uses' of the *Liverpool Plains Local Environmental Plan* (LEP) 2011 in order to facilitate the construction of a service station with development consent on the subject land, described as Lot 3 DP 1121681 and known as 1172 New England Highway, Willow Tree. This proposal reflects historic and current land use activities, and will allow for the development of land commensurate with the requirements of relevant agencies as well as Council's local strategic planning objectives.

Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending Schedule 1 'Additional permitted uses' of the LEP, as follows:

1 Use of certain land on the New England Highway, Willow Tree

- (1) This clause applies to land identified as "A" on the Additional Permitted Uses Map, being Lot 3 in DP 1121681.*
- (2) Development for the purpose of a service station is permitted with development consent.*

Accordingly, a corresponding Additional Permitted Uses Map shall be gazetted as part of the proposed amendment.

Part 3 – Justification

Section A – Need for the Planning Proposal

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

The subject Planning Proposal is not a result of any strategic study or report. Nevertheless, Council is supportive of the additional permitted use considering historic and current land use activities, as well as advantageous preliminary comments received from NSW Roads and Maritime Services (RMS), attached as Appendix B.

The subject land is zoned RU1 Primary Production pursuant to the provisions of the LEP, and is improved with an existing 'truck depot' and 'grain handling facility'. In this regard, an amendment to Schedule 1 of the LEP in order to allow the establishment of a commensurate land use, being a 'service station', is not expected to result in any localised conflict.

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.

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* was reviewed in relation to the Planning Proposal. It is considered that the Planning Proposal is consistent with the objectives of the Plan, in particular chapter four which relates to infrastructure. The Planning Proposal will ensure that development occurs in an area which is appropriately serviced and located in order to facilitate the clustering of compatible activities, which is expected to support the economic development of the region.

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 acknowledges the roles of transport and services as key sectors in the Shire's economy, as well as the importance of facilitating responsible growth in these sectors.

Furthermore, the proposed amendment is considered to be consistent with the following key strategic directions and actions under the LPSC Community Strategic Plan:-

- *To develop strategies that facilitates growth and guide Council toward ecological sustainability through responsible management of both the natural and built environments.*
- *To maximise the tourism and economic development potential of the Shire and facilitate increased growth and sustained development.*

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

The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies (SEPPs) as follows:

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

This SEPP provides that development which may involve potentially hazardous or offensive industry or storage requires specific assessment by the consent authority. As the Planning Proposal will facilitate the construction of a service station, any future development application will be required to be accompanied by a Preliminary Hazard Assessment.

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The subject site is devoid of native trees and features a small number of non-native grasses and other shrubs. It is not expected that future development on the subject land will comprise a threat to core koala habitat or potential koala habitat, due to the intensity of existing land uses and the absence of suitable habitat for fauna or substantial colonies or pockets of native flora.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)

The objective of SEPP No. 55 is to provide a state-wide planning approach to the remediation of contaminated land. The SEPP requires consideration of previous land uses and promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

It is anticipated that the proposed development will be undertaken on a portion of the subject land that is not currently exposed to fuel or other chemical spills. The subject land is not known to be contaminated and is not included in the NSW Environment Protection Authority contaminated land register. In this regard, it is considered that the allotment is suitable for further development and compliance with the provisions of this Policy will be ensured as part of any future development application.

State Environmental Planning Policy No. 64 – Advertising and Signage

This Policy is concerned with outdoor advertising and signage. While the Planning Proposal may accommodate development that will involve the erection of additional signage, compliance with the provisions of this Policy is capable of being achieved.

State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery on infrastructure across the State. It is noted that the subject land has frontage to the New England Highway, which is a classified road pursuant to the *Roads Act 1993*. Therefore, Clause 101 'Development with frontage to a classified road' will apply to a future development application. In this regard, the development will be required to be assessed so that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. Initial advice from the NSW RMS indicates that they have no objection in principle to the proposed additional use. It is considered that, subject to lodgement of suitable documentation as part of a future development application, that compliance can be achieved with the provisions of this Policy.

State Environmental Planning Policy (Rural Lands) 2008

The aims of this Policy are as follows:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) to implement measures designed to reduce land use conflicts,*
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

As outlined within this document, the subject land has a size of approximately 8 hectares and accommodates a truck depot and a grain handling facility. Considering the size of the allotment as well as historic land uses, viable agricultural activities are not readily achievable. The Planning Proposal will facilitate the orderly and economic use and development of this allotment commensurate with existing activities, and as such it is not expected to cause any localised land use conflicts.

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

The proposal is consistent with the relevant Section 117 directions, as demonstrated in the following table:

Direction No.	Provisions	Consideration
1.1 Business & Industrial Zones	When this Direction Applies This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or a proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	As the Planning Proposal will not affect land within an existing or proposed business or industrial zone, this Direction does not apply.
1.2 Rural Zones	What a relevant planning authority must do if this direction applies Clause 4(a) of this direction applies to all relevant planning authorities and states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	As the Planning Proposal does not seek to rezone the subject land the development is not inconsistent with the provisions of this Direction. Although the proposal will involve the intensification of a land use for non-agricultural production purposes, the subject land is undersized and inefficient for primary production purposes.
1.3 Mining, Petroleum Production & Extractive Industries	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) Prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) Restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting land use that is likely to be incompatible with such development.	The Planning Proposal does not affect nor compromise the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials.

Direction No.	Provisions	Consideration
1.4 Oyster Aquaculture	Where this direction applies This direction applies to Priority Oyster Aquaculture Areas and oyster aquaculture as identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy</i>.	The Planning Proposal does not relate to any identified oyster farming areas.
1.5 Rural Lands	When this direction applies This direction applies when: (a) A relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) A relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director General of the Department of Planning (or an officer of the Department nominated by the Director General) that the provisions of the planning proposal that are inconsistent are: (a) Justified by a strategy which: (i) Gives consideration to the objectives of this direction, (ii) Identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) Is approved by the Director-General of the Department of Planning and is in force, or (b) Is of minor significance.	The proposed development has been considered in accordance with the Rural Planning Principles and Rural Subdivision Principles listed in <i>SEPP (Rural Lands)</i> 2008 as detailed earlier within this Report. The proposed development is considered suitable in this instance as it will involve the intensification of a land use for non-agricultural production purposes on land that is unproductive and undersized for most efficient primary production purposes. Furthermore, given that the allotment is fragmented and located in proximity to urban services, it is not considered that the proposal will lead to the degradation of high quality agricultural lands or create unmanageable land use conflicts.
2.1 Environment Protection Zones	What a relevant planning authority must do if this direction applies A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	As the subject land does not comprise an environmentally sensitive area, the Planning Proposal is not affected by this Direction.
2.2 Coastal Protection	Where this direction applies This direction applies to the coastal zone, as defined in the <i>Coastal Protection Act 1979</i>.	This Planning Proposal does not apply to designated coastal zones.

Direction No.	Provisions	Consideration
2.3 Heritage Conservation	What a planning authority must do if this direction applies A planning proposal must contain provisions that facilitate the conservation of: (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	This Planning Proposal is not expected to affect any items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The Planning Proposal is not considered to be inconsistent with this Direction.
2.4 Recreation Vehicle Areas	What a relevant planning authority must do if this direction applies A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area.	This Planning Proposal does not relate to the establishment of any recreation vehicle areas.

Direction No.	Provisions	Consideration
3.1 Residential Zones	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) An existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) Any other zone in which significant residential development is permitted or proposed to be permitted.	The subject Planning Proposal is not affected by this Direction, as the land is not zoned for residential purposes and significant residential development is not permitted.
3.2 Caravan Parks & Manufactured Home Estates	What a relevant planning authority must do if this direction applies In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) Retain provisions that permit development for the purpose of a caravan park to be carried out on land, and (b) Retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.	No caravan parks or Manufactured Housing Estates are affected, nor are envisaged as a result of this Planning Proposal. The LEP maintains appropriate provisions in order to provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates. The Planning Proposal is not considered to be inconsistent with this direction.
3.3 Home Occupations	What a relevant planning proposal must do if this direction applies Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	The Planning Proposal will not alter existing provisions relating to home occupations. The Planning Proposal is not considered to be inconsistent with this direction.
3.4 Integrating Land Use & Transport	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	The Planning Proposal is not inconsistent with this Direction, as the proposed additional use is commensurate with surrounding development and capitalises on existing transport connectivity.

Direction No.	Provisions	Consideration
3.5 Development Near Licensed Aerodromes	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	The land affected by the Planning Proposal is not in proximity to any licensed aerodromes and is not within the Australian Noise Exposure Forecast contours of between 20 and 25.
3.6 Shooting Ranges	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	The land affected by the Planning Proposal is not in proximity to any existing or proposed shooting ranges. The Planning Proposal is not considered to be inconsistent with this Direction.
4.1 Acid Sulphate Soils	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	The land affected by the Planning Proposal is not identified as containing acid sulphate soils. The Planning Proposal is not considered to be inconsistent with this Direction.
4.2 Mine Subsidence & Unstable Land	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) Is within a mine subsidence district, or (b) Has been identified as unstable in a study, strategy or other assessment undertaken.	The land affected by the Planning Proposal is not identified as being located within a designated mine subsidence district. The Planning Proposal is not considered to be inconsistent with this Direction.
4.3 Flood Prone Land	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The land affected by the Planning Proposal is not identified as being subject to inundation by flooding. The Planning Proposal is not considered to be inconsistent with this Direction.

Direction No.	Provisions	Consideration
4.4 Planning for Bushfire Protection	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	The land affected by the Planning Proposal is not identified as being subject to bushfire hazards. The Planning Proposal is not considered to be inconsistent with this Direction.
6.1 Approval and Referral Requirements	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal. What the relevant planning authority must do if this direction applies A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority prior to undertaking community consultation in satisfaction of Section 57 of the Act. However, as detailed previously within this report, future consultation will be required with the NSW RMS in accordance with the provisions of <i>State Environmental Planning Policy (Infrastructure)</i> 2007. The Planning Proposal is substantially consistent with the terms of this Direction.

Direction No.	Provisions	Consideration
6.1 Approval and Referral Requirements continued	(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. Consistency A planning proposal must be substantially consistent with the terms of this direction.	See comments on previous page.
6.2 Reserving Land for Public Purposes	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal. What a relevant planning authority must do if this direction applies A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).	The Planning Proposal will not create, alter or reduce existing zonings or reservations of land for public purposes. The Planning Proposal is not considered to be inconsistent with this Direction.
6.3 Site Specific Provisions	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. What a relevant planning authority must do if this direction applies A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) Allow that land use to be carried out in the zone that the land is situated on, or (b) Rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	The Planning Proposal is consistent with the this Direction, as it will allow the establishment of a 'service station' on the subject land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. Further, the Planning Proposal will not contain or refer to drawings that show details of the development proposal.

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 subject site is heavily disturbed and devoid of any significant native or non-native flora or fauna. Therefore, it is considered unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be present on the site.

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

There are no other likely environmental effects envisaged as a result of this 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 commercial certainty in respect to the diversification of an existing business enterprise within the Willow Tree Township.

The Planning Proposal is considered unlikely to result in adverse social or economic impacts. It is intended that extensive community consultation will be undertaken as part of the public exhibition process. It is considered that the proposal will have a positive economic benefit to the community as it will facilitate a development proposal with strategic planning merit.

Section D – State and Commonwealth interests

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

Additional essential services, including electricity, stormwater and road access shall be made available to serve the affected land via the imposition of appropriate conditions of consent on a future development application, in accordance with the provisions of the LEP and *Liverpool Plains Development Control Plan 2012*.

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

Initial consultation with the NSW RMS has been undertaken by the proponent, with relevant documentation attached as Appendix B to this report.

Additional State and Commonwealth public authorities will be consulted following the outcome of the gateway determination, if required, in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979*.

Part 4 - Mapping

A new map will be created as a result of the Planning Proposal, being the Additional Permitted Uses Map. A preliminary map is included overleaf. Current land zoning and minimum lot size maps are also included (which are not proposed to alter).

Preliminary Additional Permitted Uses Map

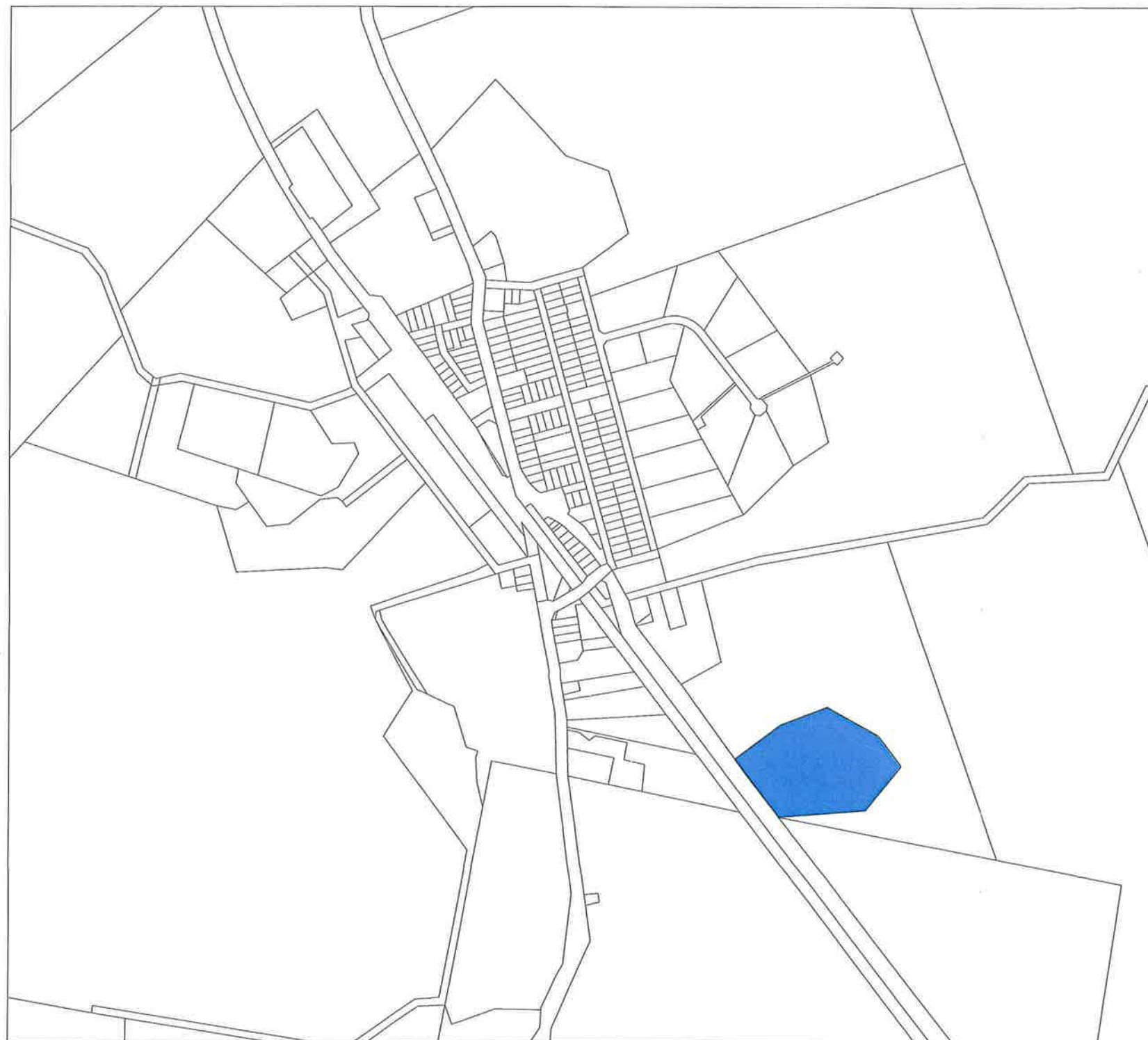


Liverpool Plains
Local Environmental
Plan 2011

-  Additional Permitted Uses
(refer to Schedule 1)
-  Base cadastre data NSW LPMA



Projection GDA 1994
Zone 56



Current Land Zoning Map



Liverpool Plains Local Environmental Plan 2011

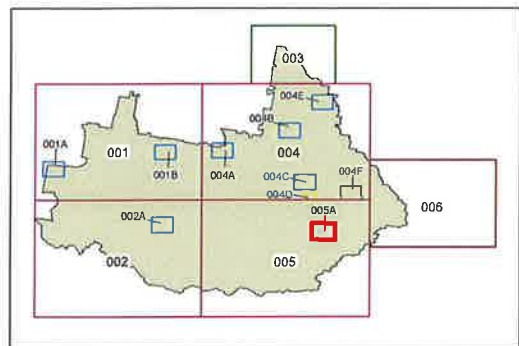
Land Zoning Map - Sheet LZN_005A

Zone

- B2** Local Centre
- MU** Mixed Use
- E1** National Parks and Nature Reserves
- E3** Environmental Management
- E4** Environmental Living
- IN1** General Industrial
- IN2** Light Industrial
- R1** General Residential
- R5** Large Lot Residential
- RE1** Public Recreation
- RE2** Private Recreation
- RU1** Primary Production
- RU3** Forestry
- RUS** Village
- RUG** Transition
- SP1** Special Activities
- SP2** Infrastructure

Cadastre

- Base data 30/07/2012
- © Land & Property Information (LPI)

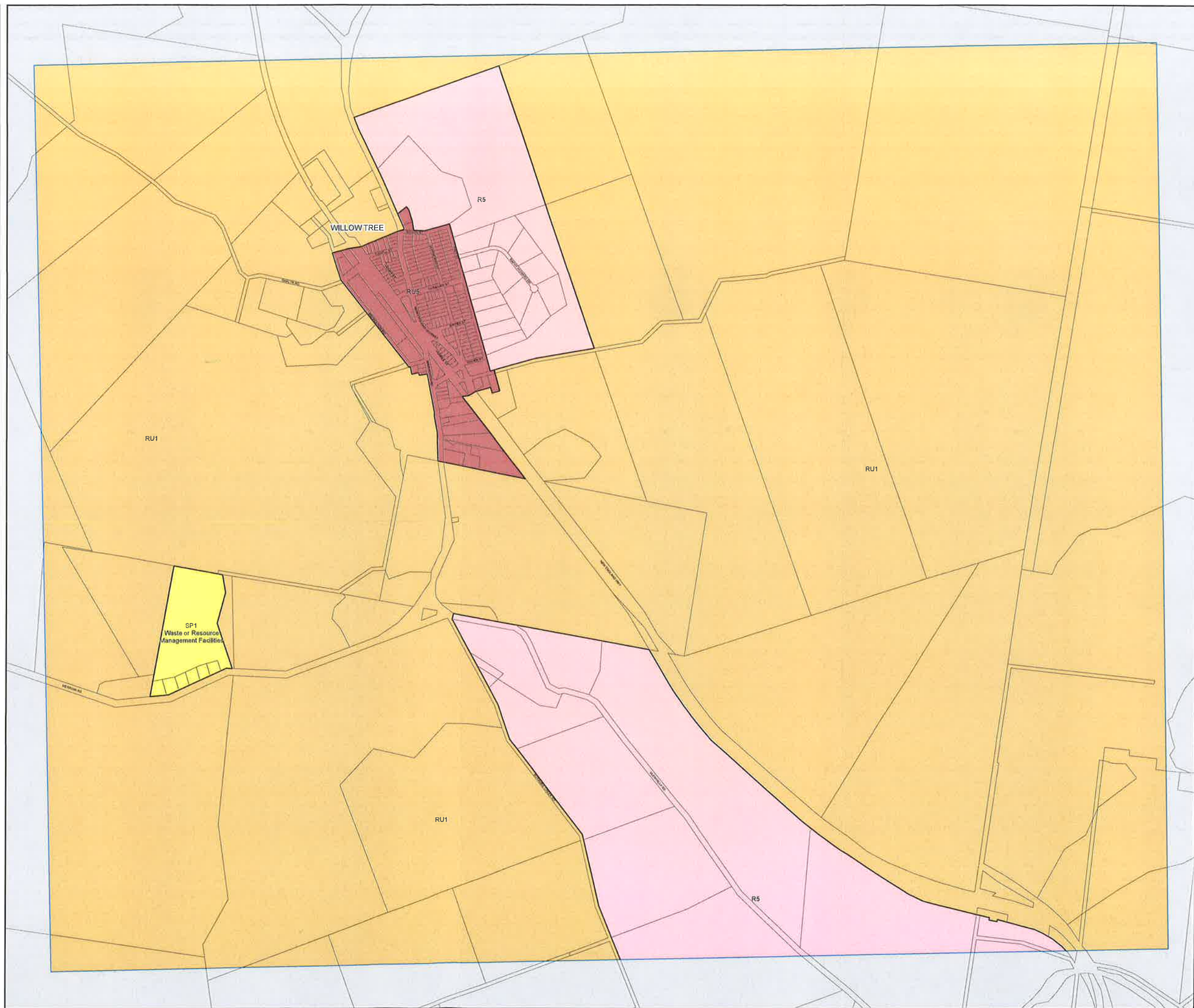


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Projection: GDA 1994
Zone 56

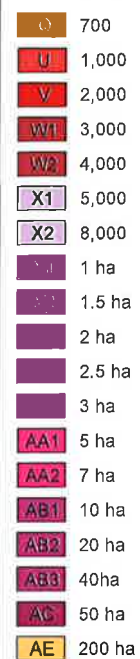
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Current Minimum Lot Size Map

Lot Size Map - Sheet LSZ_005A

Minimum Lot Size (sq m)



Cadastre

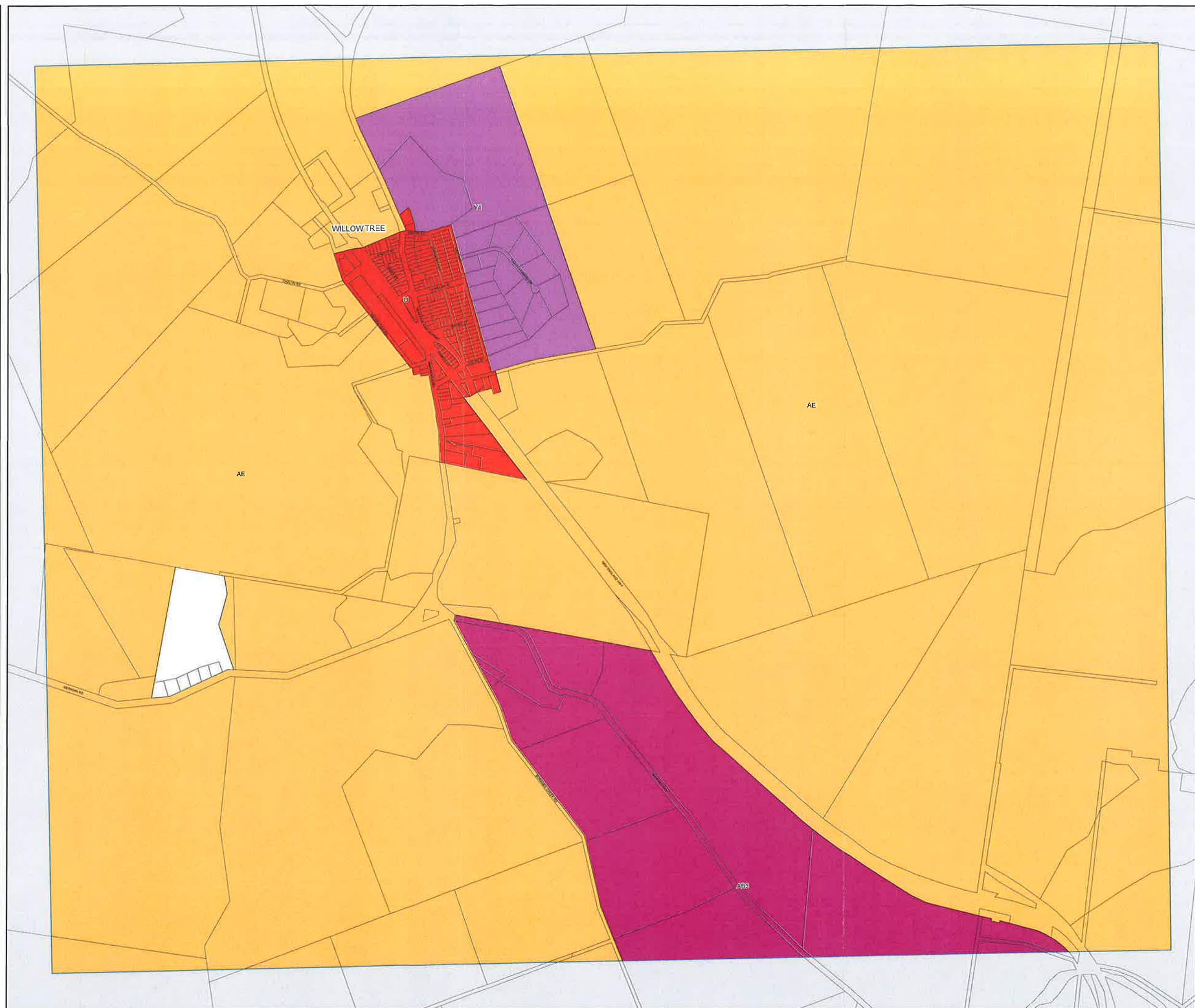
Base data 30/07/2012
© Land & Property Information (LPI)



Projection: GDA 1994
Zone 56

Scale: 1: 20000 @ A3

Map Identification Number:
4920_COM_LSZ_005A_020_20120731



Part 5 – Community Consultation

It is considered that community engagement should include the placement of the proposal on public exhibition for a minimum period of 14 days. The public exhibition would include notice within the local paper, use of Council's website and social media and targeted consultation with both affected and surrounding landholders.

Part 6 – Project Timeline

Action	Indicative Date
Council Resolution	22 July 2015
Gateway Determination	September 2015
Government Agency Consultation	September 2015
Public exhibition Period	September 2015 – October 2015
Submission assessment	October 2015
RPA assessment of Planning Proposal and exhibition outcomes	October 2015 – November 2015
Liaison with Parliamentary Counsel and submission of endorsed LEP Amendment to Department of Planning and Environment for finalisation.	November 2015

COMMITTEE MEETINGS (Continued)

1591. QUESTIONS FOR NEXT MEETING / GENERAL BUSINESS

(i) Constitutional Recognition of Local Government

RESOLVED THAT

- (a) *The Mayor be authorised to complete the LGNSW Survey on behalf of Council in relation to support for constitutional recognition of Local Government.* [Crs Cudmore/Roberts]

(i) Leave of Absence

RESOLVED THAT

- (a) *Cr Ian Lobsey OAM be granted a leave of absence from the July 2015 Council Meeting.* [Crs Cudmore/Roberts]

ENVIRONMENTAL SERVICES COMMITTEE MEETING – 16 JULY 2015

1592. ACTING GENERAL MANAGER REPORT NO 11/15 - AMENDMENT NO. 2 TO THE LIVERPOOL PLAINS SHIRE COUNCIL DEVELOPMENT CONTROL PLAN 2012 [13.6.1]

RESOLVED THAT

- (a) *Acting General Manager Report No 11/15 be received.*
 (b) *In relation to the report "Amendment No. 2 to the Liverpool Plains Shire Council Development Control Plan 2012", Council:*
 (i) *Endorse the public exhibition of Amendment No. 2 to the Liverpool Plains Shire Council Development Control Plan 2012 for a period of 28 days; and*
 (ii) *Requests a report to be submitted to a future meeting of Council to detail the outcome of the public exhibition process.*

[Crs Cudmore/Laurie]

Crs K.M. Cudmore, A.M. Hope, A.T. Laurie and M.V. Roberts voted in favour of the motion. There were no votes against the motion.

1593. ACTING GENERAL MANAGER REPORT NO 13/15 – PROPOSED LEP AMENDMENT NO 5 [13.6.1]

Refer Page No 20

RESOLVED THAT

- (a) *Acting General Manager's Report No 13/15 be received.*
 (b) *Authorisation be provided to proceed with the lodgement of the draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment).* [Crs Roberts/Cudmore]

Crs K.M. Cudmore, A.M. Hope, A.T. Laurie and M.V. Roberts voted in favour of the motion. There were no votes against the motion.

LIVERPOOL PLAINS SHIRE COUNCIL

ENVIRONMENTAL SERVICES COMMITTEE MEETING HELD ON WEDNESDAY 15 JULY 2015 AT 2.40 PM

PRESENT: Cr A.M. Hope (Chair), Crs K.M. Cudmore, A.T. Laurie, I.R. Lobsey OAM and M.V. Roberts.

LEAVE OF ABSENCE: Crs C.W. Stewart and R.J. Webster.

IN ATTENDANCE: Acting General Manager, Director Corporate & Community Services, Director Works, Chief Financial Officer, Communications Manager and Executive Assistant.

- 1. ACTING GENERAL MANAGER REPORT NO 11/15 - AMENDMENT NO. 2 TO THE LIVERPOOL PLAINS SHIRE COUNCIL DEVELOPMENT CONTROL PLAN 2012 {13.6.1}**
Refer Page No 1

RECOMMENDATION TO COUNCIL

THAT

- (a) *Acting General Manager Report No 11/15 be received.***
 - (b) *In relation to the report "Amendment No. 2 to the Liverpool Plains Shire Council Development Control Plan 2012", Council:***
 - (i) *Endorse the public exhibition of Amendment No. 2 to the Liverpool Plains Shire Council Development Control Plan 2012 for a period of 28 days; and***
 - (ii) *Requests a report to be submitted to a future meeting of Council to detail the outcome of the public exhibition process.***
- [Crs Laurie/Cudmore]***

Crs K.M. Cudmore, A.M. Hope, A.T. Laurie, I.R. Lobsey OAM and M.V. Roberts voted in favour of the motion. There were no votes against the motion.

- 2. ACTING GENERAL MANAGER REPORT NO 13/15 – PROPOSED LEP AMENDMENT NO 5 {13.6.1}**
Refer Page No 20

RECOMMENDATION TO COUNCIL

THAT

- (a) *Acting General Manager's Report No 13/15 be received.***
 - (b) *Authorisation be provided to proceed with the lodgement of the draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment).***
- [Crs Roberts/Laurie]***

Crs K.M. Cudmore, A.M. Hope, A.T. Laurie, I.R. Lobsey OAM and M.V. Roberts voted in favour of the motion. There were no votes against the motion.

LIVERPOOL PLAINS SHIRE COUNCIL

REPORT TO ENVIRONMENTAL SERVICES COMMITTEE MEETING TO BE HELD ON WEDNESDAY 15 JULY 2015

AUTHOR: KATE CAMPBELL

REPORT NO: GM 13/15

SUBJECT: PROPOSED LEP AMENDMENT NO 5

FILE NO: 13.6.1

MANDATORY STATUTORY REQUIREMENTS

Councillors, applicants, persons making public submissions (written or verbal) and members of the public are advised of the following relevant procedural requirements;

4) Record (Division) of Voting

In accordance with Section 375A(3) of the *Local Government Act 1993*, a Division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

A division under Section 375A(3) of the Act is required on this Planning Application.

5) Relevant Planning Application

In accordance with Section 147(4) of the *Environmental Planning and Assessment Act 1979*, a person who makes a relevant planning application to Council is required to disclose the following reportable political donations and gifts (if any) made by a person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:

- (c) all reportable political donations made to any local councillor of the Council;
- (d) all gifts made to any councillor or employee of the Council.

6) Relevant Public Submission

In accordance with Section 147(5) of the *Environmental Planning and Assessment Act 1979*, a person who makes a relevant public submission to Council in relation to a relevant planning application made to the Council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the submission is determined.

Disclosure of Reportable Political Donations and Gifts

c) Planning Applications

Nil

d) Public Submissions

Nil

PROPOSED LEP AMENDMENT NO 5 (Continued)

PURPOSE:

Council has received an application proposing an amendment to Schedule 1 'Additional permitted uses' of the *Liverpool Plains Local Environmental Plan* (LEP) 2011. This application proposes an amendment to the LEP in order to facilitate the construction of a service station with development consent on the subject land, described as Lot 3 DP 1121681 and known as 1172 New England Highway, Willow Tree ('Howard's Haulage').

The purpose of this report is to seek authority from Council, allowing the lodgement of a draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment).

SUPPORTING INFORMATION:

The property owners have engaged Bath, Stewart Associates Pty Ltd to prepare the requisite planning report to support the proposed LEP amendment. Council Officers have completed a draft Planning Proposal, attached as Appendix "A" to this report for the information of Councillors. This Proposal has been prepared in accordance with *A Guide to Preparing Planning Proposals* dated October 2012 and *A Guide to Preparing Local Environmental Plans* dated April 2013 published by the NSW Department of Planning & Infrastructure (now the NSW Department of Planning and Environment).

BACKGROUND:

The subject land has an area of approximately 8 hectares and is described as Lot 3 DP 1121681, known as 1172 New England Highway, Willow Tree. The allotment is located approximately 1 kilometre to the south of the village of Willow Tree on the New England Highway, as demonstrated by Figures 1 and 2, below. The land currently accommodates a truck depot ('Howard's Haulage'), which has been operating from the subject site for approximately thirty (30) years, as well as a grain handling facility which has been operating for approximately twenty (20) years. Access to the development site is provided by the New England Highway in the form of a bitumen sealed access node approximately 24 metres wide.

This Planning Proposal seeks the inclusion of a site specific enabling clause pursuant to Schedule 1 'Additional permitted uses' of the LEP in order to facilitate the construction of a service station with development consent on the subject land. This proposal reflects historic and current land use activities, and will allow for the development of land commensurate with the requirements of relevant agencies as well as Council's local strategic planning objectives. It is noted that such a proposal will require the submission of a future Development Application, upon gazettal of the proposed LEP amendment.

PROPOSED LEP AMENDMENT NO 5 (Continued)

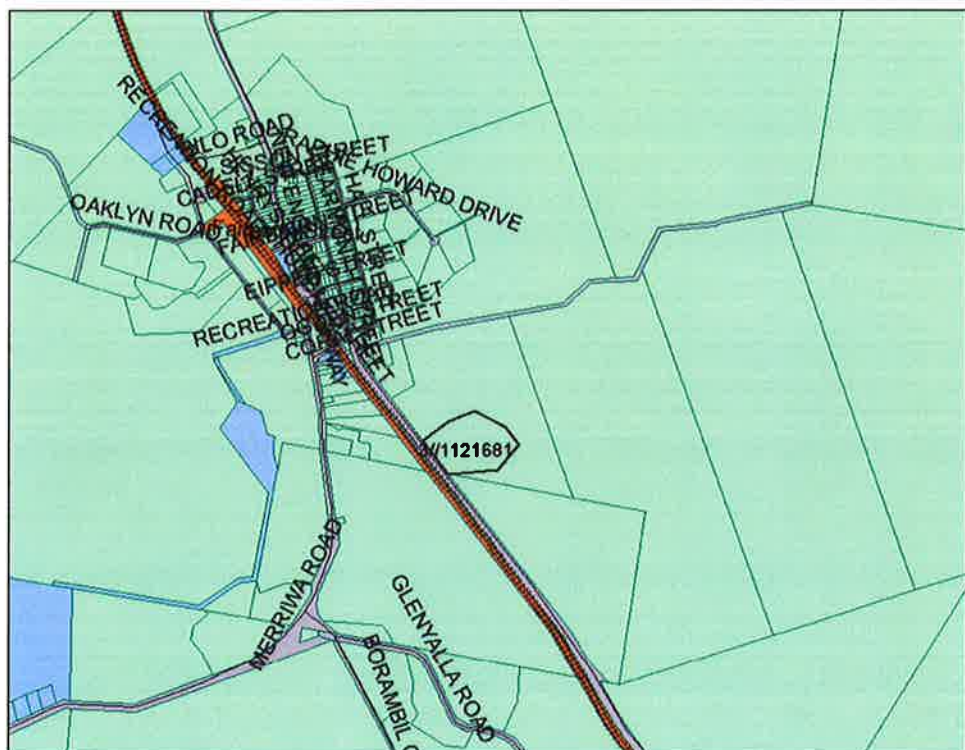


Figure 1 - Cadastral Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree



Figure 2 - Aerial Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree

PROPOSED LEP AMENDMENT NO 5 (Continued)

ISSUES & COMMENTS:

As detailed by the documentation attached as Appendix A to this report, the proposed development has been considered in accordance with Council's strategic planning framework as well as State and Commonwealth interests. Thorough assessment of the proposed development indicates that amending Schedule 1 of the adopted LEP is the best means of achieving the objectives of the Planning Proposal.

The proposed development is not expected to create an undesirable precedent in this instance, for the following reasons:

- Commensurate historic and current land uses, comprising a truck depot ('Howard's Haulage'), which has been operating from the subject site for approximately thirty (30) years, as well as a grain handling facility which has been operating for approximately twenty (20) years. The Planning Proposal will ensure that development occurs in an area which is appropriately serviced and located in order to facilitate the clustering of compatible activities, which is expected to support the economic development of the region;
- The allotment is suitably located (in proximity to Willow Tree) and is capable of accommodating the proposed development;
- The size of the allotment, as well as the presence and nature of existing land uses, do not permit the achievement of viable agricultural activities;
- Preliminary consultation with the NSW RMS indicates that they do not have any objection in principle to the proposed additional use. Therefore, the development of the land is expected to be commensurate with the requirements of relevant agencies as well as Council's local strategic planning objectives, and is not expected to result in any localised conflict.

The proposed outcome will be achieved by amending Schedule 1 'Additional permitted uses' of the LEP, as follows:

1 Use of certain land on the New England Highway, Willow Tree

- (1) This clause applies to land identified as "A" on the Additional Permitted Uses Map, being Lot 3 in DP 1121681.*
- (2) Development for the purpose of a service station is permitted with development consent.*

Accordingly, a corresponding Additional Permitted Uses Map shall be gazetted as part of the proposed amendments.

FINANCIAL & RESOURCE IMPLICATIONS:

Application fees, in accordance with Council's adopted Operational Plan, were paid upon lodgement of the Planning Proposal.

LEGAL IMPLICATIONS:

There are no legal implications to report at this time.

PROPOSED LEP AMENDMENT NO 5 (Continued)

STAKEHOLDER CONSULTATION:

Extensive community consultation will be undertaken in accordance with the terms of consent provided by the NSW Department of Planning and Environment as part of their Gateway determination.

OPTIONS:

1. Provide authority to Council staff to proceed with the lodgement of a draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment); or
2. Elect not to proceed with the Planning Proposal.

CONCLUSION:

As detailed throughout this report as well as in the draft Planning Proposal attached as Appendix A, an amendment to Schedule 1 of the LEP is considered acceptable in this instance as a result of extenuating local circumstances. As such, it is recommended that authorisation be provided by Council to proceed with the lodgement of the draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment).

LINK TO POLICY AND/OR COMMUNITY 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 acknowledges the roles of transport and services as key sectors in the Shire's economy, as well as the importance of facilitating responsible growth in these sectors.

Furthermore, the proposed amendment is considered to be consistent with the following key strategic directions and actions under the LPSC Community Strategic Plan:-

- *To develop strategies that facilitates growth and guide Council toward ecological sustainability through responsible management of both the natural and built environments.*
- *To maximise the tourism and economic development potential of the Shire and facilitate increased growth and sustained development.*

RECOMMENDATION

THAT

- (a) Acting General Manager's Report No 13/15 be received.**
- (b) Authorisation be provided to proceed with the lodgement of the draft Planning Proposal to LEP Gateway (NSW Department of Planning and Environment).**

**R S (Ron) Van Katwyk
Acting General Manager**

Appendix "A"

Draft Planning Proposal

Liverpool Plains Shire Council

Amendment to Schedule 1

Liverpool Plains LEP 2011

(Amendment No. 5)



July 2015

Legislative Framework

Pursuant to Section 55(1) of the *Environmental Planning and Assessment Act 1979* ('the 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 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 Amendment No. 5 to the *Liverpool Plains Local Environmental Plan* (LEP) 2011 at its meeting of 22 July 2015. The report to Council as well as the relevant resolution is included at Attachment 'A'.

Overview

The subject land has an area of approximately 8 hectares and is described as Lot 3 DP 1121681, known as 1172 New England Highway, Willow Tree. The allotment is located approximately 1 kilometre to the south of the village of Willow Tree on the New England Highway, as demonstrated by Figures 1 and 2, below. The land currently accommodates a truck depot ('Howard's Haulage'), which has been operating from the subject site for approximately thirty (30) years, as well as a grain handling facility which has been operating for approximately twenty (20) years. Access to the development site is provided by the New England Highway in the form of a bitumen sealed access node approximately 24 metres wide.

This Planning Proposal seeks the inclusion of a site specific enabling clause pursuant to Schedule 1 'Additional permitted uses' of the LEP in order to facilitate the construction of a service station with development consent on the subject land.

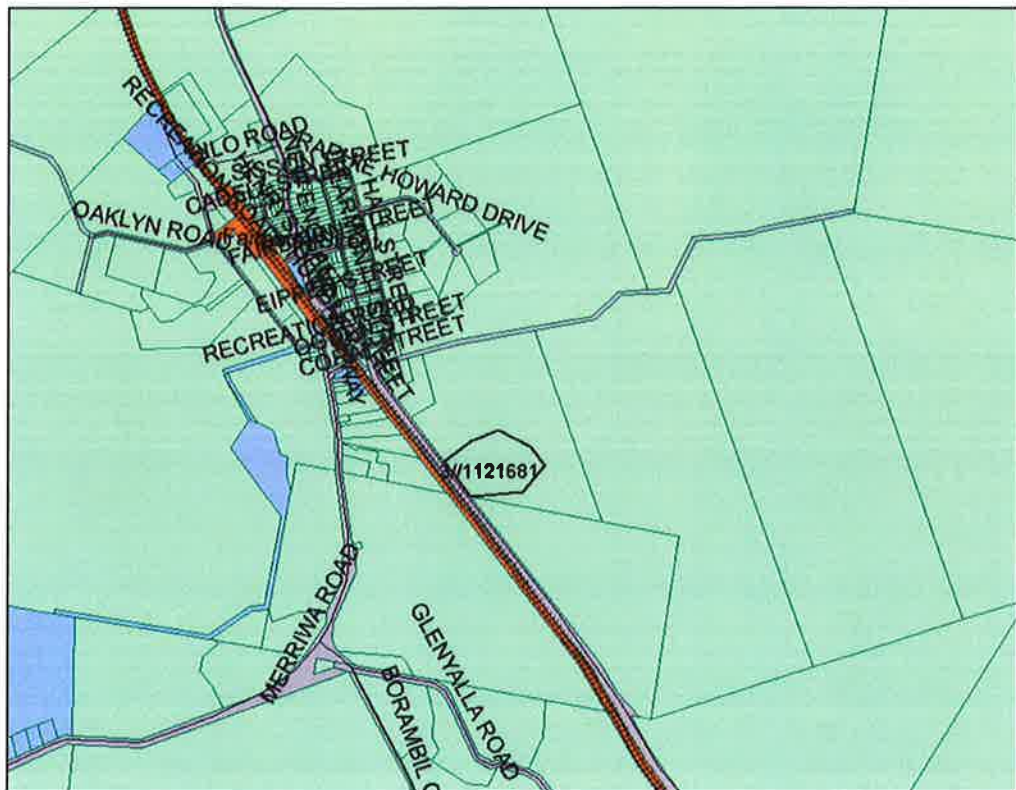


Figure 1 - Cadastral Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree



Figure 2 - Aerial Image of the Subject Land, Lot 3 in DP 1121681, 1172 New England Highway, Willow Tree

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Attachments

- A. Council Report and Resolution July 2015
- B. Preliminary Comments Received from NSW RMS

Part 1 – Objectives or Intended Outcomes

This Planning Proposal seeks the inclusion of a site specific enabling clause pursuant to Schedule 1 'Additional permitted uses' of the *Liverpool Plains Local Environmental Plan* (LEP) 2011 in order to facilitate the construction of a service station with development consent on the subject land, described as Lot 3 DP 1121681 and known as 1172 New England Highway, Willow Tree. This proposal reflects historic and current land use activities, and will allow for the development of land commensurate with the requirements of relevant agencies as well as Council's local strategic planning objectives.

Part 2 – Explanation of Provisions

The proposed outcome will be achieved by amending Schedule 1 'Additional permitted uses' of the LEP, as follows:

1 Use of certain land on the New England Highway, Willow Tree

- (1) This clause applies to land identified as "A" on the Additional Permitted Uses Map, being Lot 3 in DP 1121681.*
- (2) Development for the purpose of a service station is permitted with development consent.*

Accordingly, a corresponding Additional Permitted Uses Map shall be gazetted as part of the proposed amendment.

Part 3 – Justification

Section A – Need for the Planning Proposal

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

The subject Planning Proposal is not a result of any strategic study or report. Nevertheless, Council is supportive of the additional permitted use considering historic and current land use activities, as well as advantageous preliminary comments received from NSW Roads and Maritime Services (RMS), attached as Appendix B.

The subject land is zoned RU1 Primary Production pursuant to the provisions of the LEP, and is improved with an existing 'truck depot' and 'grain handling facility'. In this regard, an amendment to Schedule 1 of the LEP in order to allow the establishment of a commensurate land use, being a 'service station', is not expected to result in any localised conflict.

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.

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* was reviewed in relation to the Planning Proposal. It is considered that the Planning Proposal is consistent with the objectives of the Plan, in particular chapter four which relates to infrastructure. The Planning Proposal will ensure that development occurs in an area which is appropriately serviced and located in order to facilitate the clustering of compatible activities, which is expected to support the economic development of the region.

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 acknowledges the roles of transport and services as key sectors in the Shire's economy, as well as the importance of facilitating responsible growth in these sectors.

Furthermore, the proposed amendment is considered to be consistent with the following key strategic directions and actions under the LPSC Community Strategic Plan:-

- *To develop strategies that facilitates growth and guide Council toward ecological sustainability through responsible management of both the natural and built environments.*
- *To maximise the tourism and economic development potential of the Shire and facilitate increased growth and sustained development.*

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

The Planning Proposal is considered to be consistent with relevant State Environmental Planning Policies (SEPPs) as follows:

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

This SEPP provides that development which may involve potentially hazardous or offensive industry or storage requires specific assessment by the consent authority. As the Planning Proposal will facilitate the construction of a service station, any future development application will be required to be accompanied by a Preliminary Hazard Assessment.

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The subject site is devoid of native trees and features a small number of non-native grasses and other shrubs. It is not expected that future development on the subject land will comprise a threat to core koala habitat or potential koala habitat, due to the intensity of existing land uses and the absence of suitable habitat for fauna or substantial colonies or pockets of native flora.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)

The objective of SEPP No. 55 is to provide a state-wide planning approach to the remediation of contaminated land. The SEPP requires consideration of previous land uses and promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

It is anticipated that the proposed development will be undertaken on a portion of the subject land that is not currently exposed to fuel or other chemical spills. The subject land is not known to be contaminated and is not included in the NSW Environment Protection Authority contaminated land register. In this regard, it is considered that the allotment is suitable for further development and compliance with the provisions of this Policy will be ensured as part of any future development application.

State Environmental Planning Policy No. 64 – Advertising and Signage

This Policy is concerned with outdoor advertising and signage. While the Planning Proposal may accommodate development that will involve the erection of additional signage, compliance with the provisions of this Policy is capable of being achieved.

State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery on infrastructure across the State. It is noted that the subject land has frontage to the New England Highway, which is a classified road pursuant to the *Roads Act 1993*. Therefore, Clause 101 'Development with frontage to a classified road' will apply to a future development application. In this regard, the development will be required to be assessed so that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. Initial advice from the NSW RMS indicates that they have no objection in principle to the proposed additional use. It is considered that, subject to lodgement of suitable documentation as part of a future development application, that compliance can be achieved with the provisions of this Policy.

State Environmental Planning Policy (Rural Lands) 2008

The aims of this Policy are as follows:

- (a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) to implement measures designed to reduce land use conflicts,*
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

As outlined within this document, the subject land has a size of approximately 8 hectares and accommodates a truck depot and a grain handling facility. Considering the size of the allotment as well as historic land uses, viable agricultural activities are not readily achievable. The Planning Proposal will facilitate the orderly and economic use and development of this allotment commensurate with existing activities, and as such it is not expected to cause any localised land use conflicts.

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

The proposal is consistent with the relevant Section 117 directions, as demonstrated in the following table:

Direction No.	Provisions	Consideration
1.1 Business & Industrial Zones	When this Direction Applies This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or a proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).	As the Planning Proposal will not affect land within an existing or proposed business or industrial zone, this Direction does not apply.
1.2 Rural Zones	What a relevant planning authority must do if this direction applies Clause 4(a) of this direction applies to all relevant planning authorities and states that a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	As the Planning Proposal does not seek to rezone the subject land the development is not inconsistent with the provisions of this Direction. Although the proposal will involve the intensification of a land use for non-agricultural production purposes, the subject land is undersized and inefficient for primary production purposes.
1.3 Mining, Petroleum Production & Extractive Industries	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of: (a) Prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) Restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting land use that is likely to be incompatible with such development.	The Planning Proposal does not affect nor compromise the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials.

Direction No.	Provisions	Consideration
1.4 Oyster Aquaculture	Where this direction applies This direction applies to Priority Oyster Aquaculture Areas and oyster aquaculture as identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy</i>.	The Planning Proposal does not relate to any identified oyster farming areas.
1.5 Rural Lands	When this direction applies This direction applies when: (a) A relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) A relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone. Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director General of the Department of Planning (or an officer of the Department nominated by the Director General) that the provisions of the planning proposal that are inconsistent are: (a) Justified by a strategy which: (i) Gives consideration to the objectives of this direction, (ii) Identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) Is approved by the Director-General of the Department of Planning and is in force, or (b) Is of minor significance.	The proposed development has been considered in accordance with the Rural Planning Principles and Rural Subdivision Principles listed in <i>SEPP (Rural Lands) 2008</i> as detailed earlier within this Report. The proposed development is considered suitable in this instance as it will involve the intensification of a land use for non-agricultural production purposes on land that is unproductive and undersized for most efficient primary production purposes. Furthermore, given that the allotment is fragmented and located in proximity to urban services, it is not considered that the proposal will lead to the degradation of high quality agricultural lands or create unmanageable land use conflicts.
2.1 Environment Protection Zones	What a relevant planning authority must do if this direction applies A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	As the subject land does not comprise an environmentally sensitive area, the Planning Proposal is not affected by this Direction.
2.2 Coastal Protection	Where this direction applies This direction applies to the coastal zone, as defined in the <i>Coastal Protection Act 1979</i>.	This Planning Proposal does not apply to designated coastal zones.

Direction No.	Provisions	Consideration
2.3 Heritage Conservation	What a planning authority must do if this direction applies A planning proposal must contain provisions that facilitate the conservation of: (a) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i>, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	This Planning Proposal is not expected to affect any items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance. The Planning Proposal is not considered to be inconsistent with this Direction.
2.4 Recreation Vehicle Areas	What a relevant planning authority must do if this direction applies A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area.	This Planning Proposal does not relate to the establishment of any recreation vehicle areas.

Direction No.	Provisions	Consideration
3.1 Residential Zones	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect land within: (a) An existing or proposed residential zone (including the alteration of any existing residential zone boundary), (b) Any other zone in which significant residential development is permitted or proposed to be permitted.	The subject Planning Proposal is not affected by this Direction, as the land is not zoned for residential purposes and significant residential development is not permitted.
3.2 Caravan Parks & Manufactured Home Estates	What a relevant planning authority must do if this direction applies In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must: (a) Retain provisions that permit development for the purpose of a caravan park to be carried out on land, and (b) Retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.	No caravan parks or Manufactured Housing Estates are affected, nor are envisaged as a result of this Planning Proposal. The LEP maintains appropriate provisions in order to provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates. The Planning Proposal is not considered to be inconsistent with this direction.
3.3 Home Occupations	What a relevant planning proposal must do if this direction applies Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	The Planning Proposal will not alter existing provisions relating to home occupations. The Planning Proposal is not considered to be inconsistent with this direction.
3.4 Integrating Land Use & Transport	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	The Planning Proposal is not inconsistent with this Direction, as the proposed additional use is commensurate with surrounding development and capitalises on existing transport connectivity.

Direction No.	Provisions	Consideration
3.5 Development Near Licensed Aerodromes	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	The land affected by the Planning Proposal is not in proximity to any licensed aerodromes and is not within the Australian Noise Exposure Forecast contours of between 20 and 25.
3.6 Shooting Ranges	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	The land affected by the Planning Proposal is not in proximity to any existing or proposed shooting ranges. The Planning Proposal is not considered to be inconsistent with this Direction.
4.1 Acid Sulphate Soils	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	The land affected by the Planning Proposal is not identified as containing acid sulphate soils. The Planning Proposal is not considered to be inconsistent with this Direction.
4.2 Mine Subsidence & Unstable Land	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that: (a) Is within a mine subsidence district, or (b) Has been identified as unstable in a study, strategy or other assessment undertaken.	The land affected by the Planning Proposal is not identified as being located within a designated mine subsidence district. The Planning Proposal is not considered to be inconsistent with this Direction.
4.3 Flood Prone Land	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	The land affected by the Planning Proposal is not identified as being subject to inundation by flooding. The Planning Proposal is not considered to be inconsistent with this Direction.

Direction No.	Provisions	Consideration
4.4 Planning for Bushfire Protection	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	The land affected by the Planning Proposal is not identified as being subject to bushfire hazards. The Planning Proposal is not considered to be inconsistent with this Direction.
6.1 Approval and Referral Requirements	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal. What the relevant planning authority must do if this direction applies A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and (c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and	The Planning Proposal does not include provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority prior to undertaking community consultation in satisfaction of Section 57 of the Act. However, as detailed previously within this report, future consultation will be required with the NSW RMS in accordance with the provisions of <i>State Environmental Planning Policy (Infrastructure) 2007</i>. The Planning Proposal is substantially consistent with the terms of this Direction.

Direction No.	Provisions	Consideration
6.1 Approval and Referral Requirements continued	(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act. Consistency A planning proposal must be substantially consistent with the terms of this direction.	See comments on previous page.
6.2 Reserving Land for Public Purposes	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal. What a relevant planning authority must do if this direction applies A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).	The Planning Proposal will not create, alter or reduce existing zonings or reservations of land for public purposes. The Planning Proposal is not considered to be inconsistent with this Direction.
6.3 Site Specific Provisions	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out. What a relevant planning authority must do if this direction applies A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) Allow that land use to be carried out in the zone that the land is situated on, or (b) Rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	The Planning Proposal is consistent with the this Direction, as it will allow the establishment of a 'service station' on the subject land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. Further, the Planning Proposal will not contain or refer to drawings that show details of the development proposal.

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 subject site is heavily disturbed and devoid of any significant native or non-native flora or fauna. Therefore, it is considered unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be present on the site.

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

There are no other likely environmental effects envisaged as a result of this 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 commercial certainty in respect to the diversification of an existing business enterprise within the Willow Tree Township.

The Planning Proposal is considered unlikely to result in adverse social or economic impacts. It is intended that extensive community consultation will be undertaken as part of the public exhibition process. It is considered that the proposal will have a positive economic benefit to the community as it will facilitate a development proposal with strategic planning merit.

Section D – State and Commonwealth interests

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

Additional essential services, including electricity, stormwater and road access shall be made available to serve the affected land via the imposition of appropriate conditions of consent on a future development application, in accordance with the provisions of the LEP and *Liverpool Plains Development Control Plan 2012*.

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

Initial consultation with the NSW RMS has been undertaken by the proponent, with relevant documentation attached as Appendix B to this report.

Additional State and Commonwealth public authorities will be consulted following the outcome of the gateway determination, if required, in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979*.

Part 4 - Mapping

A new map will be created as a result of the Planning Proposal, being the Additional Permitted Uses Map.

Part 5 – Community Consultation

It is considered that community engagement should include the placement of the proposal on public exhibition for a minimum period of 14 days. The public exhibition would include notice within the local paper, use of Council's website and social media and targeted consultation with both affected and surrounding landholders.

Part 6 – Project Timeline

Action	Indicative Date
Council Resolution	22 July 2015
Gateway Determination	24 August 2015
Government Agency Consultation	24 August 2015
Public exhibition Period	31 August 2015 – 14 September 2015
Submission assessment	14 September 2015 – 28 September 2015
RPA assessment of Planning Proposal and exhibition outcomes	September 2015 – October 2015
Liaison with Parliamentary Counsel and submission of endorsed LEP Amendment to Department of Planning and Environment for finalisation.	November 2015

File No: NTH15/00038
Your Ref: 15159

The Director
Bath Stewart Associates
PO Box 403
TAMWORTH NSW 2340

Attention: Sonia Vickery

Dear Sir / Madam,

Planning Proposal – Howards Haulage, Lot 3 DP 1121681, 1172 New England Highway Willow Tree

I refer to your email of 13 May 2015 requesting preliminary comment from Roads and Maritime Services in relation to a planning proposal for a schedule 1 amendment to permit an additional use at the abovementioned location.

Roles & Responsibilities

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

The New England Highway (HW9) is a classified (state) road. Liverpool Plains Shire Council is the 'Roads Authority' for this road and all other public roads in the subject area.

In accordance with Clause 101 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road as the development has frontage to a classified road.

It is emphasised that the following comments are based on the information provided. They are not to be interpreted as binding upon Roads and Maritime and further comment may be provided following consideration of any planning proposal referred by the relevant consent authority.

Roads and Maritime Response

It is understood that a self-service heavy vehicle refuelling facility is proposed within the existing Howard's Haulage Transport Depot and that a schedule 1 Amendment to the Liverpool Plains Shire Council Local Environmental Plan (LEP) is proposed to include 'service station' as permissible with consent on the subject land.

Roads and Maritime would have no objection in principle to the proposed additional use provided it can be demonstrated that the vehicle movements generated by the overall development would not impact adversely upon the safety and efficiency of the classified road.

If you have any further enquiries regarding the above comments please do not hesitate to contact Liz Smith, Manager Land Use Assessment on (02) 6640 1362 or via email at: development.northern@rms.nsw.gov.au

Yours faithfully



2 June 2015

Monica Sirol
Network & Safety Manager, Northern Region

CC: Manager Planning & Development - Liverpool Plains Shire Council

Attachment B – Preliminary Comments Received from NSW RMS

File No: NTH15/00038

Your Ref: 15159

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Bath Stewart Associates
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