

Planning Proposal to Amend Moree Plains Local Environmental Plan 2011

**Proposed Rezoning of Land
Lots 11, 12, 13, 46 and 227 in DP 755980
Kentucky Rd, Boggabilla**

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**Volume 1
Planning Proposal**

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INTRODUCTION

This planning proposal presents an assessment of a proposed amendment to the local environmental plan applying to Lots 11, 12, 13, 46 and 227 in Deposited Plan 755980 located in the Kentucky road area within the northern part of the Moree Plains Shire in the Boggabilla area.

The proposed amendment to the local environmental plan would consist of rezoning Lots 11, 12, 13, 46, and 227 in Deposited Plan 755980 at Boggabilla to permit the land to be used for a mixture of R5 - Large Lot Residential and RU4 - Primary Production Small Lots.

The land is currently zoned RU1 - Primary Production and the suitability of the land for these uses had been investigated prior to the introduction of the Standard Instrument (Local Environmental Plans) Order 2006. It had been intended that the land be zoned for these uses in the PlanFirst LEP that was under development by Council at that time.

Following the introduction of the Standard Instrument (Local Environmental Plans) Order 2006, Council undertook the preparation of the Moree Plains Shire Growth Management Strategy in conjunction with Edge Land Planning and the NSW Department of Planning. This Strategy was adopted in January 2009.

The Strategy built on research completed for the PlanFirst LEP and was intended to inform the preparation of the Standard Instrument LEP. The Strategy, at pp 221-223 confirmed the suitability of the Kentucky road land for a mixture of R5 - Large Lot Residential and RU4 - Primary Production Small Lots and recommended that this land be rezoned accordingly. This did not occur when the Local Environmental Plan was gazetted in 2011.

The proposal is consistent with the relevant Ministerial directions contained in section 117 of the Environmental Planning and Assessment Act 1979 and is in accordance with the Moree Plains Shire Growth Management Strategy 2009 (the Strategy).

The proposal aims to provide a total of 96 (although could vary) allotments ranging in size from 0.4 Ha to approximately 9.8 hectares. The land is owned by Bedajama Pty Ltd and would be developed by the owner over a period of seven to ten years.

The following report presents a description of the proposal and an assessment of the proposal with the objective of determining whether the amendment to the Local Environmental Plan is justified.

BACKGROUND

A rezoning submission was lodged with Council during the preparation of the PlanFirst LEP in 2004/5 to rezone the land for rural residential purposes. Due to the State Government's introduction of the Standard Instrument (Local Environmental Plans) order 2005 the rezoning did not proceed at that time.

In 2007 another approach was made to Council who, in consultation with State Government, requested additional studies, particularly in relation to potential impacts of the proposal on the adjoining flood protection levee protecting the town of Goondiwindi in Queensland. The Kentucky road area is located on the opposite bank of the Macintyre River to the town of Goondiwindi which is protected by a levee bank. The Goondiwindi Regional Council was consulted during the flood assessment process and participated in a review of the initial findings and further assessment of the potential flood height impacts of the proposal. The modelling was undertaken by Cardno Lawson Treloar between 2007 and 2012. The

modelling concluded that once fully developed the proposal would have a negligible impact on Goondiwindi's town levee.

Upon the presentation of the flood impact conclusions, the Proponent proceeded with the preparation of this planning proposal to fully assess the whole of the proposed rezoning of the subject land to R5 Large Lot Residential in the north and RU4 Primary Production Small Lots in the south.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

To rezone land adjacent to the town of Goondiwindi on the New South Wales side of the Macintyre River in north west NSW to enable the land to be developed for Large Lot Residential (R5) and Primary Production Small Lots (RU4) under Moree Plains Local Environmental Plan 2011 (the LEP).

PART 2 – EXPLANATION OF PROVISIONS

The Principal LEP to be amended is Moree Plains Local Environmental Plan 2011.

The subject land comprises Lots 11, 12, 13, 46 and 227 in Deposited Plan 755980. The address of the land is Kentucky Road, Boggabilla. The subject land is presently zoned RU1 – Primary Production. Under this zoning, minimum allotment size is 100 hectares per dwelling.

The Planning Proposal involves rezoning the subject land to two zones, mainly R5 Large Lot Residential and RU4 Primary Production Small Lots. The attached plans present a layout of the proposed subdivision. Lot sizes within the proposal would include residential lots with a minimum area of 4000 square metres (1 acre). These lots would be located to take advantage of the river area and therefore have potential river views. The larger lots to the south within the proposed area of RU4 would have a central section with minimum lot sizes of 5 Ha.

The Planning Proposal would be achieved by amending the following maps:

- Lot Size Map Sheet LSZ_003C, and
- Land Zoning Map Sheet LZN_003C,

The above plans are presented in Volume 2.

PART 3 – JUSTIFICATION

Section A. Need for the Planning Proposal

Q1 Is the Planning Proposal a result of any strategic study or report?

The potential for growth and development of the subject land into various lot sizes is identified in the Moree Plains Shire Growth Management Strategy (January 2009).

The relevant section of the Growth Management Strategy is included in Volume 3.

The Growth Management Strategy has previously been approved by Moree Plains Shire Council and the Director General of the Department of Planning and Infrastructure.

Q2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Moree Plains Shire Growth Management Strategy (January, 2009) was prepared prior to the Moree Plains Local Environmental Plan 2011. The Growth Management Strategy

identified a potential for the subject land to be zoned to allow a combination of large lot residential (R5) and smaller rural lots (RU4). The strategy noted that a demand report for the area had identified a demand for up to 45 new dwellings each year in the Goondiwindi area and that there is no equivalent land available in the immediate environs of Goondiwindi. The Strategy indicated that the proposal offered the equivalent of a 10 year supply for this type of land to meet the demand for this type of development in the northern sector of the Moree Plains Shire.

At present, the construction of dwellings on lots of less than 100 Ha is restricted by the land zoning. To enable the construction of dwellings on lots that aim to meet demand in the area, it has been identified that lot sizes need to range between 4,000 square metres for river view lots to provide a house and land option without a more extensive area of hobby farm attached, to the larger lots where the land would enable construction of a dwelling with area included to operate a small farm or hobby farm.

It is considered that rezoning the land to zones already contained in the LEP is preferable to:

- Creating new land use zones (prohibited, see PN 06-002); or
- Adding new permissible uses to the RU1 zone (dwelling houses are already permitted); or
- Adding the land to Schedule 1 – Additional permitted uses of the LEP (would conflict with clauses 4.1 and 4.2 of the LEP).

The precedent for variable lot sizes within the same land use zone exists under the current LEP. On this basis, the proposal to extend this current planning principle is preferable. The lot size would be limited by an amendment to the “Lot Size Map Sheet LSZ_003C. The amendment to this plan would involve removal of the current 100 Ha Lot size (AD) to incorporate additional areas of 4000 square metre minimum lots and areas of 5 Ha minimum lot size.

The attached plan presented in Volume 2 presents the revised Lot Size Map to identify the lot size limitations as proposed.

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 (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

The Planning Proposal is consistent with the *Strategic Regional Land Use Plan: New England North West 2012* and the Moree Plains Shire Growth Management Strategy.

The following addresses the matters contained in the *Strategic Regional Land Use Plan: New England North West 2012*:

Objectives

- *Ensure an adequate supply of housing to meet community needs.*

The Strategic Regional Land Use Plan states that population growth and demographic change is expected to continue in the region which will require an extra 6,800 to 8,000 dwellings to be provided over the next 25 years. A demand study undertaken by the land owner has suggested that there is an undersupply of this type of land in the region and that the supply in the Goondiwindi region has been exhausted. The demand study is attached in correspondence presented in Volume 3 of this planning proposal.

- *Ensure a greater diversity of housing types, including smaller housing types, rental housing and temporary housing.*

The proposal would increase the range and diversity of available housing types in the locality by providing lot sizes that are in short supply in this northern section of the Shire. Letters from local real estate agents are presented in Volume 3 which confirms the shortage of land in this category as well as its effect on land prices. The Real Estate Agents provide local knowledge as to what land is available and the preferences of new home buyers in this northern section of the Shire.

- *Improve the supply and range of affordable housing.*

The proposal would provide additional land size options for housing development. This is deemed to provide an alternative area for housing development in the local area and therefore it is generally accepted that this would increase housing affordability by reducing land prices generally.

- *Build cohesive and liveable communities by ensuring towns and villages are well designed, liveable and provide a range of housing types.*

The proposal would provide a new housing release area and feature a range of desirable land configurations in a well set out arrangement to accommodate the growth of the town of Goondiwindi and the village of Boggabilla.

Actions

- *Local councils will prepare land and housing supply strategies that identify sufficient land to facilitate an adequate supply of appropriately located housing to meet identified demand.*

Council's Growth Management Strategy, adopted by Council and approved by the Director General of the Department of Planning and Infrastructure, has identified the subject land as suitable for the proposed development.

- *Local councils will zone land through their local environmental plans to ensure an adequate supply of land for residential development and to facilitate delivery of a range of housing types.*

This proposal seeks to rezone the land for residential development to cater for demonstrated demand in the northern sector of the Shire. Current development in the area is dominated by rural residential based properties that are located a short distance from Goondiwindi township.

- *Local councils will ensure that new residential development makes a positive contribution to liveability and character by ensuring residential areas are planned in accordance with the settlement planning principles in this plan.*

This proposal complies with the settlement planning guidelines which are discussed below.

- *Work with Urban growth NSW and the housing and development industry to develop models for the delivery of more housing and a more diverse range of housing types.*

Urban growth NSW is not active in this locality. This proposal would deliver a greater choice of housing types by providing a land type that is in short supply and great demand in the locality.

- *Work with local councils, infrastructure providers and the housing and development industry to monitor the supply of residential land and the delivery of new housing.*

This proposal will help to overcome a shortage of large lot and small agricultural lots in the locality.

Settlement planning principles

When planning for housing growth, the following settlement planning principles must be considered:

- *Development will contribute to the diversity of housing types available. Any medium or higher density housing should be located in central and accessible locations, to ensure access to a full range of services within a reasonable walking distance.*

The proposal would provide for a range of housing types. These could include large lot residential on 4,000 to 8,000 square metre parcels suitable for rural residential lifestyle developments. The proposal identifies such lots in the north of the development site to take advantage of river views and the presence of the adjoining town of Goondiwindi.

All additional lots under the RU4 zoning will be a minimum of 5 Ha. These lots would provide an option to allow a dwelling in addition to a medium sized shed for residents that may operate small agricultural contracting operations from an urban base. Such lot areas would also be suitable for small hobby farms with stock or high-value horticultural crop production.

The southern part of the area to be rezoned is on better quality cropping land. These lots will be of minimum 5 Ha and up until 9.4 Ha. These lots would provide a buffer between the smaller lots and larger surrounding farms.

- *Development will be located to maximise the efficiency of essential urban infrastructure, services and facilities, including transport, health and education.*

The subject land is located adjacent to the town of Goondiwindi which can provide essential urban infrastructure such as retail, commercial, health, education and transport. Goondiwindi

Regional Council has agreed to provide a reticulated potable water supply to the subject land (see letter in Volume 3).

- *Development will respect and respond to the character of the area and the identified settlement hierarchy of the region.*

The proposal would follow the rural residential character of adjoining lands. This includes eight (8) rural residential lots that had been created and utilised for small farms to the west. An additional six (6) rural residential sized lots exist to the immediate east of the proposed rezoning area. The southern section of the area is surrounded by larger farms utilised for irrigation and cultivation purposes.

- *New residential areas will be planned with streets that make it easy for people to walk and cycle, and with recreational and open space.*

The proposed development pattern provides for adequate private open space and is within cycling distance to the town of Goondiwindi.

- *New residential and rural residential areas will respect environmental and cultural heritage and avoid areas most affected by natural hazards or having high cultural significance.*

The smaller lots in the north of the subject area would aim to preserve the aesthetic values of the riverine corridor associated with the Macintyre River. This would include avoidance of any development in hazardous areas such as the immediate river bank and drainage zones.

A flood impact assessment including modelling indicate that overland flooding hazard is low based on criteria set out in the NSW Floodplain Development Manual. This report details an approximate Probable Maximum Flood (PMF), based on data gathered from the 1976/1996 flood events. The report concluded that the area is inundated in a 1% AEP, meaning house pads will have to be raised to a required RL prior to development. Only two locations showed water levels exceeding 1.5 metres, one is directly south of the Macintyre River along Kentucky Road just metres from the bridge and the other is through the proposed road in the north western corner near lots 78, 77 and 76. Due to the nature of the flooding along the Macintyre residents would have two or three days' notice before these two points along exit roads would be cut off, allowing for adequate time to evacuate. The report also indicated that there would be no impact on the existing Goondiwindi levee from the Maloney development. Reports of this modelling are attached in Volume 2.

An assessment has been undertaken and included in this submission to determine any potential impact or areas to be avoided that may have environmental and or cultural significance.

- *New residential and rural residential areas should minimise the potential for land use conflict with land needed for valuable economic activities, such as valuable agricultural lands and natural resource lands. This includes avoiding locations where possible adverse impacts associated with industry (such as noise, dust, visual impacts or other amenity impacts) are likely to affect future residents.*

The subject land is not mapped as Strategic Agricultural Land or a Coal Seam Gas Resource but is considered to have some potential to contain underground coal. The proximity of the land to the Macintyre River makes coal extraction highly unlikely and would not affect the development proposal.

The proposed subdivision pattern provides for a buffer between rural residential lots and larger lots suitable for high-value horticultural uses. These larger lots also provide 300 metre deep buffers between broad-acre farming activity and potential dwelling locations.

- *New rural residential areas should be located adjacent to, or in close proximity to, existing urban centres and be within easy access of relevant infrastructure and services.*

The subject land is adjacent to the town of Goondiwindi and will have a potable water supply provided from there.

Q4 Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

The proposal is considered to be consistent with the Council's Growth Management Strategy where the subject land is recommended for the proposed rezoning on pages 221-223.

Development of surrounding lots has supported similar landuse in the form of medium sized lots that have been sold from larger farms for the purpose of rural residential style housing development. The current land use provides a NSW based alternative to similar sized lot development in the adjoining Goondiwindi area. It is the most logical option to providing additional river frontage lots for Goondiwindi whilst remaining in close proximity to the business and commercial hubs of the town.

No other strategic plans have been prepared that are relevant to the proposal.

Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

Refer to Appendix A. The proposal is considered consistent with this policy.

Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Refer to Appendix B. The proposal is considered consistent with the Directions.

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 critical habitat has been declared for the subject land and therefore no impacts would occur.

In order to assess the proposal in relation to threatened species, populations and ecological communities, an assessment as outlined under s5A of the Environmental Planning and Assessment Act 1979 was undertaken. This is referred to as a threatened species assessment. The assessment is presented in Volume 2. Potential impacts upon threatened species are discussed in the form of a 7-Parameter test.

The threatened Species Assessment has determined that a Species Impact Statement is not required for this proposal as the potential impacts of the proposal are not considered as significant to threatened species, ecological communities or populations.

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

The site is predominantly cleared and has been used for cultivation and grazing for several decades. The remaining habitat available on the site is considered to be in a highly modified state. Remnant trees including river gums and other species would be retained within the area as proposed in order to maintain the aesthetic attraction to the site.

The environmental effects for the flora and fauna impacts of this proposal are discussed in Volume 2 - Threatened Species Assessment. A copy of an onsite waste water management report is included in Volume 2 to address the disposal of onsite wastewater to be generated from dwellings if the development proceeds. The critical factor for this assessment would be the buffer distance available from the river on the smaller lots. The current standards recommend a minimum buffer distance of 15m to 100m from surface water, subject to risk assessment during the investigation of individual systems. This is achievable for the current preliminary subdivision layout as presented by the developer. Wastewater disposal on the larger lots would present less risk to the environment or adjoining landholders.

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

The proposal addresses the current demand within the Goondiwindi region for riverside lots and larger rural residential lots. River frontage blocks are lots that are being sought after within the Goondiwindi community for the aesthetic value of the town weir area. This enables an increase in riverside options for the Goondiwindi locality and as such a viable option for the population growth of the town, which has a positive flow on effect for business and industry within both Goondiwindi and Boggabilla. Copies of signed letters from local real estate agents addressing this issue of available residential lots within the area and supporting this proposal are contained within Volume 3.

Section D. State and Commonwealth interests

Q10 Is there adequate public infrastructure for the planning proposal?

The proposal will be provided with adequate public road and drainage infrastructure by the developer. This will include bitumen sealed roads to the smaller lots and appropriate roads to the larger lots to meet the current Council standards. The specific standard of roads would be determined during a development application stage in which the subdivision of the land would be presented to local Council for consideration. In accordance with existing precedents, the developer has indicated that they expect to be required to develop a road and service network equivalent to similar developments within the Shire. As indicated this would include bitumen sealed roads, electricity and telecommunications appropriate to Council standards.

Goondiwindi Council has previously stated that it is willing to provide the site with a connection to the Goondiwindi town water services at the developer's cost. A copy of this letter of support from council dated March 2007 is included in Volume 3. This would resolve any issues relating to the supply of potable water to smaller lots where alternatives would involve collection of rainwater or development of a sub-artesian bore supply for each house. The provision of a pipe potable water supply to the area would resolve any conflict or issues of obtaining a suitable water supply for the closer development.

No other infrastructure is lacking in the area.

Q11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

Not applicable at this stage. Consultation would be undertaken in accordance with the Gateway Determination.

PART 4 – MAPPING

Relevant mapping is included in Volume 2 in the following Attachments:

Attachment 1

- Map identifying land subject of the Planning Proposal
- Map identifying current minimum lot size standards Lot Size Map Sheet LSZ_003C
- Map identifying current land use zones Land Zoning Map Sheet LZN_003C
- **Amended** Lot Size Map Sheet LSZ_003C
- **Amended** Land Zoning Map Sheet LZN_003C.

The mapping presents existing zoning and lot size mapping. Revised maps showing the proposed changes to these maps are presented in attachment 1. The maps show the extent of the land zoning changes including the closest area of similar zoning, being the town of Boggabilla. Lot size maps show two minimum lot sizes as proposed, mainly a 0.4 Ha lot size and a 5 Ha minimum lot size. The lot size could be varied to include three categories if required, mainly a distinction between a minimum lot size of 5 Ha and a larger minimum lot size of upwards of 9 Ha. The proposal bases lot size on mainly the distance from the river area and the location of larger lots in an area that is closer to more viable agricultural areas that would retain their rural zoning to protect current farming activity.

PART 5 – COMMUNITY CONSULTATION

Community consultation will commence by giving notice of the public exhibition of the planning proposal:

- in the Council's news page of the local newspapers.
- on Council's web-site at www.mpsc.gov.au; and
- in writing to the relevant state agencies.

Public exhibition of the Planning Proposal will be for 28 days.

The written notice will provide:

- a description of the objectives or intended outcomes of the planning proposal;
- the land affected by the planning proposal;
- advise and when the planning proposal can be inspected;
- give the name and address of the Council for the receipt of submissions; and
- indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- the planning proposal, including Mapping Attachments, in the form approved for community consultation by the Director General of Planning and Infrastructure;
- the gateway determination; and
- any studies relied upon by the planning proposal.

Public exhibition of the Planning Proposal will be carried out in accordance with the requirements of the EP&A Act, EP&A Regulations and the Gateway determination.

PART 6 – PROJECT TIMELINE

The anticipated project timeline for completion of the Planning Proposal is outlined in Table 1.

Table 1 Project Timeline

Task	Anticipated timeframe
Date of Gateway Determination	May 2014
Completion of required technical information, studies	Complete subject to gateway determination
Government agency consultation (pre exhibition as required by Gateway Determination)	June 2014
Any changes made to Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required.	Early July
Commencement and completion dates for public exhibition.	Late July
Dates for public hearing	Not Required
Consideration of submissions, report from public hearing and Planning Proposal post exhibition	August 2014
Date of submission of proposal to Department to finalise the LEP.	September 2014

APPENDIX ‘A’ – STATE ENVIRONMENTAL PLANNING POLICIES

The following SEPPs apply to the Moree Plains local government area, as at December 2013. Each SEPP is examined in a tabular form to determine whether it is relevant and whether the proposal could be considered as consistent with the SEPP. A brief comment is provided to explain the tabular assessment of each SEPP. Where the SEPP requires further discussion, the discussion is provided after the table.

SEPP	Relevant	Consistent	Comment
No. 1 Development Standards	No		Included in the LEP
No. 4 Development Without Consent and Miscellaneous Exempt and Complying Development	No		Excluded by the LEP
No. 6 Number of Storeys in a Building	No		No buildings proposed
No. 21 Caravan Parks	No		Proposal does not include a caravan park
No. 22 Shops and Commercial Premises	No		Applies in business zones
No. 30 Intensive Agriculture	No		Prohibited in proposed zones
No. 32 Urban Land Consolidation (Redevelopment of Urban Land)	No		Proposed zones excluded
No. 33 Hazardous and Offensive Development	No		Prohibited in proposed zones
No. 36 Manufactured Home Estates	No		Prohibited in proposed zones
No. 44 Koala Habitat Protection	Yes	Yes	Only applies to land the subject of a development application
No. 50 Canal Estate Development	No		No canal development proposed
No. 55 Remediation of Land	Yes	Yes	Preliminary assessment provided
No. 62 Sustainable Aquaculture	No		Prohibited in proposed zones
No. 64 Advertising and Signage	No		No advertising signs proposed
No. 65 Design Quality of Residential Flat Development	No		Prohibited in proposed zones
Housing for Seniors or People with a Disability 2004	No		Location does not comply with clause 26

SEPP	Relevant	Consistent	Comment
Building Sustainability Index: BASIX 2004	Yes	Yes	Each new dwelling will have to comply with NSW BASIX standards upon development application.
Major Development 2005	No		Is not a major development
Mining, Petroleum Production and Extractive Industries 2007	Yes	Yes	Some potential for underground coal extraction, however, the proximity of the Macintyre River makes mining on this land unlikely. See discussion below.
Temporary Structures 2007	No		Is not a temporary structure
Infrastructure 2007	No		Proposal does not comprise 'infrastructure'
Rural Lands 2008	Yes	Yes	See below for discussion.
Exempt and Complying Development Codes 2008	No		Proposal is not exempt or complying development
Affordable Rental Housing 2009	No		No housing proposed
SEPP (State and Regional Development) 2011	Yes	Yes	See below for discussion.
Draft State Environmental Planning Policy (Competition) 2010	No		See Planning Circular PS 08-2008
Draft State Environmental Planning Policy (Exempt and Complying Development Codes Amendment (Miscellaneous)(No 2)	No		Repealed

State Environmental Planning Policy 44 – Koala Habitat Protection 1995

This SEPP only applies to land the subject of a development application and has no implications for this planning proposal but will need to be addressed if a subdivision application is lodged. Koalas are considered in the Threatened Species Assessment report.

As part of the site investigation and review of current policy within the Moree Plains Shire for Koala protection, a Koala assessment was undertaken. The determination from this

assessment indicated that the area is classified as “Potential Koala” habitat based on the trees species present. This included River Red gums, Carbeen, bloodwood and Coolibah which are potential feeds trees for Koala. Based on an ecological survey of habitat evidence, the area is not considered as potential or actual core Koala habitat. The reason for this is that Koalas are not or have not been present on the site for a period of 20+ years or more. This is based on anecdotal evidence from local fauna observers and specialists. Koalas are not common in the Goondiwindi – Boggabilla area. The reason for this is unknown. There are 22 records of Koalas within the Atlas of NSW Wildlife recorded in Moree Plains Shire. Thirteen of the records are prior to 1990, while the latest record is from 2005. Eight of the records are from the Terry Hie Hie area in the south east of the shire and others are adjacent to roads such as the Newell Highway. No scats or tracks could be identified in the subject area. On this basis, the area is not considered a core Koala habitat. Until further studies are completed in the region and an appropriate Koala corridor is established to existing Koala colonies, the potential for this area to become a Koala corridor is limited. A copy of the Parsons Brinckerhoff Koala Study for the Moree Plains Shire Council LEP in 2008 detailing this information in further detail is attached in the appendix.

SEPP 44 considerations will be given closer consideration in the subdivision proposal and subsequent development applications for each new allotment.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

This SEPP recognises the importance of mining, petroleum production and extractive industries to the state of New South Wales. It sets out classes of development that are permissible without consent, with consent and those that are prohibited. The SEPP needs to be read in conjunction with the *Strategic Regional Land Use Plan: New England North West* (SRLUP) which seeks to balance agriculture and resource extraction and maps strategic agricultural land, coal resources, coal seam gas resources and other extractive resources. A draft amendment to align the SEPP with the SRLUP is on public exhibition at the time this proposal was prepared.

The SLRUP Map 2 indicates that there is a coal resource exploration potential for an underground coal deposit. Despite this potential it is considered unlikely that mining of this coal resource, should it exist, would be considered given the subject land’s proximity to the Macintyre River and the town of Goondiwindi. It should be noted that the legislative limits and NSW State Policy is presently in continual review in relation to the potential siting of Mining and its proximity to residential land.

The proposal is therefore considered to have little relevance for this SEPP.

State Environmental Planning Policy (Rural Lands) 2008

The subject land is not identified as State Significant Agricultural Land by the SEPP.

This SEPP does not directly address zoning or rezoning of land, however, it does contain a number of considerations that are relevant to rural residential areas. At clause 10 a number of matters are set out that a consent authority must take into account when considering an application to subdivide land proposed to be used for the purpose of a dwelling, and, the erection of a dwelling.

These matters are:

- (a) *the existing uses and approved uses of land in the vicinity of the development,*

The land in the vicinity is used for a mixture of agriculture and rural residential purposes. The majority of the immediate adjoining land is developed as large lot rural residential as a result of previous subdivision of the land.

(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,

The predominant land use of adjoining land is rural residential. The proposal could therefore be classified to be consistent with the current use of the land. Areas to the south and west of the proposal are presently used for irrigated crop production, including cotton. It is noted that the preliminary layout of the lots has established a 300 m buffer zone between the Boomi Road to the southeast, in which no houses are to be built. This provides a total buffer distance of some 400m to the closest irrigated cropping area. This is considered as sufficient to avoid regular conflict between the existing landuse and the proposal, subject to appropriate farm management strategies such as Best Management Practice of pesticide spraying on the farm.

(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),

The development is considered as compatible for the majority of the surrounding development. As discussed above, some conflict may occur between the adjoining irrigated cropping farm to the southeast of the proposal. The proposed buffer zones indicated by the applicant are consistent with similar buffer zones within the Moree Plains Shire for separation of intensive agriculture and rural residential development.

(d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,

The proposed rezoning to allow development of a rural residential zone is considered as compatible with adjoining small acreage properties. The adjoining properties are not within a rural residential zoning, however they are utilised for this purpose.

(e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

The subdivision design includes 300 metre buffer distances between land in agricultural use and any home-site on allotments that adjoin agricultural land. This is the standard buffer distance previously adopted by Moree Plain Shire Council for the edge of Rural residential zones.

The proposal is therefore considered to be consistent with this SEPP.

State Environmental Planning Policy (State and Regional Development) 2011

This SEPP identifies State Significant Development, State Significant Infrastructure, Critical State Significant Infrastructure and confers certain functions on Joint Regional Planning Panels (JRPP) to determine development applications.

This planning proposal does not comprise State Significant Development, State Significant Infrastructure, Critical State Significant Infrastructure and is not a Development Application that must be referred to a JRPP.

The SEPP has no implications for this planning proposal.

APPENDIX ‘B’ - SECTION 117 DIRECTIONS

The following provides a tabular assessment of Section 117 Directions in relation to the planning proposal in this review. The Direction is assessed by a simple format of being applicable or not applicable. Where further discussion is required, it is presented below the tables.

1. Employment and Resources

Direction	Applicable	Consistent	Reason for inconsistency
1.1 Business and Industrial Zones	No		
1.2 Rural Zones	Yes	No. Minor inconsistency	See below for discussion.
1.3 Mining, Petroleum Production and Extractive Industries	Yes	No. Minor inconsistency	See below for discussion.
1.4 Oyster Aquaculture	No		
1.5 Rural Lands	Yes	Yes	See below for discussion.

2. Environment and Heritage

Direction	Applicable	Consistent	Reason for inconsistency
2.1 Environment Protection Zones	No		
2.2 Coastal Protection	No		
2.3 Heritage Conservation	Yes	Yes	
2.4 Recreation Vehicle Areas	No		

3. Housing, Infrastructure and Urban Development

Direction	Applicable	Consistent	Reason for inconsistency
3.1 Residential Zones	Yes	Yes	
3.2 Caravan Parks and Manufactured Home Estates	No		
3.3 Home Occupations	Yes	Yes	
3.4 Integrating Land Use and Transport	Yes	No	See below for discussion.
3.5 Development Near Licensed Aerodromes	No		

4. Hazard and Risk

Direction	Applicable	Consistent	Reason for inconsistency
4.1 Acid Sulfate Soils	No		
4.2 Mine Subsidence and Unstable Land	No		
4.3 Flood Prone Land	Yes	Yes	
4.4 Planning for Bushfire Protection	Yes	Yes	

5. Regional Planning

Direction	Applicable	Consistent	Reason for inconsistency
5.1 Implementation of Regional Strategies	No		
5.2 Sydney Drinking Water Catchments	No		
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No		
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No		
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No		
5.8 Second Sydney Airport: Badgerys Creek	No		
5.9 North West Rail Link Corridor Strategy	No		

6. Local Plan Making

Direction	Applicable	Consistent	Reason for inconsistency
6.1 Approval and Referral Requirements	Yes	Yes	
6.2 Reserving Land for Public Purposes	Yes	Yes	
6.3 Site Specific Provisions	Yes	Yes	

7. Metropolitan Planning

Direction	Applicable	Consistent	Reason for inconsistency
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7.1 Implementation of the Metropolitan Strategy	No		
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Discussion

The planning proposal is discussed below in relation to relevant Ministerial Directions issued under Section 117(2) of the Environmental Planning and Assessment Act 1979.

Direction 1.2 - Rural Zones

The objective of this direction is *to protect the agricultural production value of rural land*. Clause (4)(a) requires that – *a planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone*.

A planning proposal may be inconsistent with the terms of this direction if justified by a strategy as set out in clause 1.2 (5) (a). The Moree Plains Shire Growth Management Strategy, which has been approved by the Director General of the Department of Planning and Infrastructure, fulfils the requirements of this clause at pages 221 to 223 where it proposes that the subject land be zoned to allow the development of a large lot residential and rural small holding allotments on prior farmland that is presently fragmented and used for rural residential purposes.

Direction 1.3 – Mining, Petroleum Production and Extractive Industries

The objective of this direction is *to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development*.

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 of minor significance. The potential impact of this planning proposal on the recovery of underground coal resources that may exist in this location has been considered in relation to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 above. Those considerations determined that any impact from this planning proposal on potential coal resources would be of minor significance.

Direction 1.5 - Rural Lands

The objectives of this direction are to (a) *protect the agricultural value of rural land* and (b) *facilitate the orderly and economic development of rural lands for rural and related purposes*.

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing rural zone and requires that the proposal be consistent with the Rural Planning Principles contained within State Environmental Planning Policy (Rural Lands) 2008.

The Rural Planning Principles are as follows:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

The proposal uses land which at present is considered non-viable for agricultural use due to the area of land available and the efficiencies of dryland agricultural operations and grazing enterprises unless the land is intensively farmed. Its proximity to residences in Goondiwindi restricts the options for intensive agriculture or animal

husbandry. The land has also been the subject of an extractive industry operation (gravel quarry) which has resulted in an extensive area of land that could no longer be utilised for agriculture.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

The changing face of agriculture means that there is demand for specialist contractors and highly skilled professionals such as agronomists, horticulturists, computer scientists, electronic and mechanical technicians, accountant managers in addition to farm machinery contractors for the purpose of spraying, harvesting and cultivating land. These skilled and well paid professionals require accommodation of a higher class than was traditionally available. This development proposal would provide a suitable accommodation potential to attract these professionals.

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Present agricultural trends require professional support services in order to function in a highly competitive environment. Attracting professional support personnel in a competitive environment requires the provision of attractive accommodation and a high level of services. This proposal seeks to provide attractive accommodation options on the outskirts of a town that has well developed medical, educational and social infrastructure.

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

It is noted that a substantial number of farm labourers, contractors and professional consultants are based in town areas in preference to on-farm rental or accommodation. The daily travel of those involved in the agricultural contracting industry is generally balanced against the daily travel of other members of the family to community resources such as schools. The preference is for the family to adopt a shorter travel distance on better roads to ensure that weather is not an issue for issues such as school attendance.

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

This investigation of the planning proposal has investigated the local environment to assess potential impacts on the natural environment including water resources and remnant native vegetation. The investigation has not identified any specific constraints or potential impacts of significance on the local environment. The major factor noted in this investigation is that the area has undergone significant modification from a natural environment as a result of agricultural based development and an extractive industry. The remnant areas of higher biodiversity value are to be retained due to the constraints and aesthetic value of such areas within a more densely populated zone in contrast to an agricultural environment where such environmental resources present a constraint on intensity of the agricultural activity due to the responsibilities of management to preserve these resources.

(f) the provision of opportunities for rural lifestyle, settlement and housing that

contribute to the social and economic welfare of rural communities,

The proposal provides rural residential lifestyle opportunities to attract and retain professional personnel vital to modern agriculture.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

Moree Plains Shire Council has been in discussion with Goondiwindi Regional Council regarding the proposed development. Both Councils are satisfied that adequate infrastructure and services are available to support the proposal.

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The *Strategic Regional Land Use Plan: New England North West* is the applicable strategy. Consistency with this strategy has been discussed previously in this report.

The planning proposal is considered to be consistent with the objectives and the direction as it formalises the use of fragmented rural land that is no longer suitable for agricultural production due to fragmentation and the proximity of adjacent urban and rural residential development. The subject land adjoins the town of Goondiwindi and the planning proposal provides for an enhanced social and economic outcome for the community through more effective use of the land and the provision of additional housing choices.

The Moree Plains Shire Growth Management Strategy, which is a strategy approved by the Director General of the Department of Planning and Infrastructure, also proposes that the subject land be zoned to permit the development of large lot residential and rural small holding allotments to improve social and economic outcomes for the community.

Direction 2.3 – Heritage Conservation

The objective of this direction is *to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance*. Heritage conservation is addressed in the Principal Local Environmental Plan. Search results from the Aboriginal Heritage Information Management System shows that no Aboriginal Heritage sites are recorded on the land. No European heritage sites are present.

Direction 2.4 – Recreation Vehicle Areas

Recreational Vehicle areas are not defined in the Standard Instrument but would fall under the description of Recreation Facility (Outdoor) in the Principal Local Environmental Plan. Recreation Facility (Outdoor) is permissible in an RU4 zoning. Due to the proximity of existing houses to the land and the residential development of Goondiwindi, the potential for approval of recreational vehicle areas is limited.

Direction 3.1 – Residential Zones

The objectives of this direction are (a) *to encourage a variety and choice of housing types to provide for existing and future housing needs* (b) *to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services*, and (c) *to minimise the impact of residential development on the environment and resource lands*.

The planning proposal is considered as consistent with the objectives and the direction as it provides additional housing choice in a locality adjacent to a service centre.

Direction 3.2 – Caravan Parks and Manufactured Home Estates

The provision of this type of development has been addressed in the Principal Local Environmental Plan. This land use is not permitted at present. The proposed rezoning does not include a zone to allow either caravan parks or the presence of manufactured home estates.

Direction 3.3 – Home Occupations

The objective of this direction is *to encourage the carrying out of low-impact small businesses in dwelling houses.*

The planning proposal is consistent with this direction as Moree Plains Local Environmental Plan 2011 provides that *home-based child care, home businesses, home industries and home occupations* are permissible without consent in the proposed zones that are to be created by the proposal.

Direction 3.4 – Integrating Land Use and Transport

The objective of this direction is *to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:*

- (a) *improving access to housing, jobs and services by walking, cycling and public transport, and*
- (b) *increasing the choice of available transport and reducing dependence on cars, and*
- (c) *reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- (d) *supporting the efficient and viable operation of public transport services, and*
- (e) *providing for the efficient movement of freight.*

The planning proposal is considered as consistent with the Moree Plains Shire Growth Management Strategy which has been approved by the Director General of the Department of Planning and Infrastructure and any inconsistency is of minor significance.

Direction 4.3 – Flood Prone Land

The objectives of this direction are (a) *to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005,* and (b) *to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

The planning proposal is consistent with the objectives of this direction as the Moree Plains Local Environmental Plan 2011 contains provisions to:

- (a) *minimise the flood risk to life and property associated with the use of land;*
- (b) *allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change;*
- (c) *avoid significant adverse impacts on flood behaviour and the environment.*

A flood study undertaken to examine the potential impacts of flooding on the subject land and surrounding lands has demonstrated that the subject land is classified as low hazard flood prone land as flooding falls into the low hazard category in relation to flood depth and

velocity under the NSW Floodplain Development Manual 2005. Due to the nature of the catchment there is a minimum of two to three day warning of approaching floods at Goondiwindi which provides adequate time for evacuation. The report setting out the findings of this study is attached in Volume 2.

Direction 4.4 – Planning for Bushfire Protection

The objectives of this direction are:

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

The land is not mapped as bushfire prone and has been largely cleared by past land uses. It is noted that if vegetation is allowed to become overgrown that grass fires could present a hazard. It is common practice with Council to place conditions on development consents for dwellings in rural areas that require asset protection zones and fire fighting water supplies.

Direction 6.1 – Approval and Referral Requirements

The objective of this direction is *to ensure that LEP provisions encourage the efficient and appropriate assessment of development.*

The planning proposal is consistent with this direction as it

- (a) contains no provisions that would require concurrence, consultation or referral of a Minister or public authority; and
- (b) contains no provision requiring concurrence, consultation or referral of a Minister or public authority regarding community consultation in satisfaction of section 57 of the Act; and
- (c) does not identify development as designated development.

Direction 6.2 – Reserving Land for Public Purposes

The objectives of this direction are *(a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.*

The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes. The planning proposal is consistent with this direction.

Direction 6.3 – Site Specific Provisions

The objectives of this direction is *to discourage unnecessarily restrictive site specific planning controls.*

This planning proposal is consistent with this direction as it proposes to rezone land to zones already existing in the LEP and imposes no restrictive development standards or controls.