

Planning Proposal

Liverpool Plains Shire Council

Strategic Housekeeping Amendment

Liverpool Plains LEP 2011

(Amendment No. 4)



November 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 amendment is made. The proposal must explain the intended effect of the draft Local Environmental Plan 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

Amendment No. 4 to the *Liverpool Plains Local Environmental Plan* (LEP) 2011 was considered by Liverpool Plains Shire Council at their meetings on 26 August 2015 & 25 November 2015.

Overview

This Planning Proposal considers an amendment to the LEP in order to facilitate the following matters:

- **Part 1:** Review of the current land zoning and minimum lot size framework in the area described as the 'Quirindi (North) Rural Residential Area', demonstrated by the locality map included as Figure 1 and as listed in Table 1, overleaf. This land was identified by the *Liverpool Plains Growth Management Strategy* (GMS) 2009 as being potentially suitable as a rural residential area due to the absence of a number of environmental constraints, its access from Bells Gate Road off Werris Creek Road and the existing rural fringe development pattern. As such, an investigation into the attributes of this area has been completed, and changes to the existing land zoning and minimum lot size framework are proposed. It is also proposed to amend the R5 Large Lot Residential zone land use table in order to permit the construction of 'farm buildings' with development consent.
- **Part 2:** Inclusion of an additional clause in order to permit rural boundary adjustments. This clause will enable the adjustment of common boundaries between adjoining properties in rural zones (RU1 Primary Production, RU3 Forestry, RU6 Transition, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living) where one or both resultant lots are less than the prescribed minimum lot size. The aim of the amendment is to facilitate boundary adjustments between adjoining lots in rural zones where one or both of the lots will not meet the minimum lot size and where the adjustment will result in improved agricultural, social and environmental outcomes and facilitate improved management of rural land.

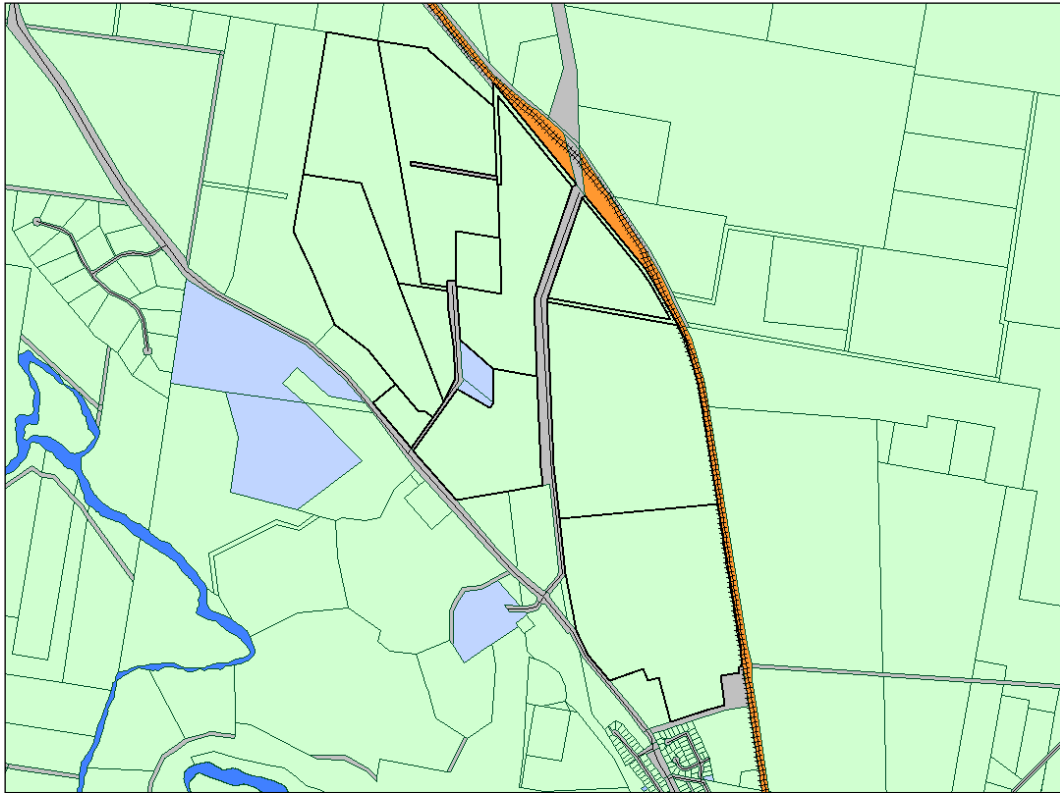


Figure 1 – Locality Map – Quirindi North Rural Residential Area

Table 1 - Affected Properties

Real Property Description	Address
Lot 31 DP 861686	89 Bradys Lane, Quirindi
Lot 4 DP 627363	91 Bradys Lane, Quirindi
Lot 1 DP 1113250	Bells Gate Road, Quirindi
Lot 316 DP 751009	155 Bells Gate Road, Quirindi
Lot 297 DP 751009	168 Bells Gate Road, Quirindi
Lot 11 DP 113850	Bells Gate Road, Quirindi
Lot 22 DP 818902	562 Werris Creek Road, Quirindi
Lot 32 DP 861686	45 Bradys Lane, Quirindi
Lot 32 DP 573640	90 Bradys Lane, Quirindi
Lot 11 DP 878120	58 Bells Gate Road, Quirindi
Lot 21 DP 818902	19 Bradys Lane, Quirindi
Lot 317 DP 751009	75 Bells Gate Road, Quirindi
Lot 12 DP 878120	240 Werris Creek Road, Quirindi

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<i>Attachment B:</i>	Ecological Constraints and Values Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd

Objectives or Intended Outcomes of the Planning Proposal

The primary aims and objectives of the proposed LEP amendments are as follows:

- To request the rezoning and alterations to the minimum lot size of certain lands within the Quirindi North Rural Residential Area in accordance with the strategic objectives of the GMS 2009;
- To permit certain additional site-specific uses within particular land use zones under the LEP; and
- To request the inclusion of a new provision in the LEP to enable rural boundary adjustments.

Proposal A: Quirindi North Rural Residential Area

Part 1 – Objectives or Intended Outcomes

- To reflect historic and current land use activities, as well as ecological constraints via the minimum lot size framework;
- To allow for future large lot residential subdivision and land uses commensurate with local strategic planning objectives;
- To facilitate the orderly and logical release of significant housing lands in accordance with a regional strategy; and
- To permit the construction of ‘farm buildings’ in the R5 Large Lot Residential zone with development consent.

Part 2 – Explanation of Provisions

The Planning Proposal will result in amendments to the LEP in accordance with Table 2 below:

Table 2 - Schedule of Proposed Lands to be Rezoned / Afforded with Amended Minimum Lot Sizes

Real Property Description & Parcel Area	Address	Current Zone	Proposed Zone	Current MLS	Proposed MLS
Lot 31 DP 861686 33 hectares	89 Bradys Lane, Quirindi	E4	R5	5 hectares	2 hectares
Lot 4 DP 627363 42.5 hectares	91 Bradys Lane, Quirindi	R5 & E4	R5	2 hectares & 5 hectares	2 hectares
Lot 1 DP 1113250 2 hectares	Bells Gate Road, Quirindi	R5	R5	2 hectares	2 hectares
Lot 316 DP 751009 34 hectares	155 Bells Gate Road, Quirindi	R5 & E4	R5	2 hectares & 5 hectares	2 hectares
Lot 297 DP 751009 16 hectares	168 Bells Gate Road, Quirindi	E4	R5	5 hectares	2 hectares
Lot 11 DP 113850 2.5 hectares	Bells Gate Road, Quirindi	E4	R5	5 hectares	2 hectares
Lot 22 DP 818902 36 hectares	562 Werris Creek Road, Quirindi	E3 & E4	E4	5 hectares & 40 hectares	10 hectares
Lot 32 DP 861686 8 hectares	45 Bradys Lane, Quirindi	E3 & E4	E4	5 hectares & 40 hectares	10 hectares
Lot 32 DP 573640 5.5 hectares	90 Bradys Lane, Quirindi	E4	R5	5 hectares	2 hectares
Lot 11 DP 878120 68.5 hectares	58 Bells Gate Road, Quirindi	E3, E4 & R5	E4	2 hectares, 5 hectares & 40 hectares	10 hectares
Lot 21 DP 818902 4 hectares	19 Bradys Lane, Quirindi	E3	R5	40 hectares	2 hectares
Lot 317 DP 751009 26.5 hectares	75 Bells Gate Road, Quirindi	E3 & E4	E4	5 hectares & 40 hectares	10 hectares
Lot 12 DP 878120 65.5 hectares	240 Werris Creek Road, Quirindi	RU1 Note: a portion of this allotment is zoned R1, which is not proposed to alter.	E4	200 hectares Note: the 700m ² minimum lot size associated with the land zoned R1 is not proposed to alter.	10 hectares

Maps detailing the abovementioned information are included later within this document.

Part 3 – Justification

The properties subject to the proposed LEP amendment are included as part of the Werris Creek Road precinct identified by the GMS as capable of supporting future rural residential development, via the provision of large residential allotments in proximity to the established town centre of Quirindi. The subject land, being the Quirindi North Rural Residential Area, was identified due to the absence of a number of environmental constraints, its access from Bells Gate Road off Werris Creek Road and existing rural fringe development pattern.

The Quirindi North Rural Residential Area has been prioritised above those other areas identified by the GMS, primarily due to the fact that the remaining three (3) areas are not expected to yield a large number of allotments (due to an existing subdivision pattern). Additionally, the subject precinct is afforded with a number of competitive advantages due to its proximity to the township of Quirindi, as well as the ability for future development to be serviced by reticulated water and sewer infrastructure and suitable road access. The proposed development will also allow for the orderly expansion of Quirindi via the provision of a transition area between R1 General Residential and RU1 Primary Production zoned land.

The proposed amendments to the LEP will assist in the achievement of a logical pattern of development while having regard for ecological considerations. The proposed amendments will also provide a range of housing choice within the Quirindi township. The Planning Proposal aims to recognise historic and current agricultural land uses, and the amended zoning and minimum lot size attributes will provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.

However, this area is not without limitation, predominantly due to the presence of Endangered Ecological Communities (EEC). As such, an Ecological Assessment was prepared for the area by Stringybark Ecological in August 2015, which develops upon an Ecological Constraints and Values Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd in February 2012. In response to the recommendations of these reports, a combination of R5 Large Lot Residential and E4 Environmental Living zoned land is proposed by the attached Planning Proposal. A suitable minimum lot size framework has also been identified following a review of land use patterns and uses, the character of existing development in the study area and prevailing environmental and physical constraints. In this regard, a proposed minimum lot size of 2 hectares is allocated for those allotments zoned R5 Large Lot Residential, while a minimum lot size of 10 hectares is allocated for those allotments zoned E4 Environmental Living. Proposed land zoning and minimum lot size maps are included as Figures 5 and 6 of this report, which are sought to be gazetted as part of the proposed amendments.

It is also proposed to amend the R5 Large Lot Residential zone land use table in order to permit the construction of 'farm buildings' with development consent. This will recognise the predominately agricultural nature of the economy, historical land use trends, current patterns of development, and will provide continuity with existing operators in the area. The exclusion of 'farm buildings' in the R5 zone has also proved to be problematic for Council as it has limited the potential for ancillary agricultural-allied development to be carried out. Therefore, the proposed amendments will enable a range of ancillary farming development to be undertaken that complements rural-residential uses in the region.

Section A – Need for the Planning Proposal

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

Yes. As discussed above, the subject study area is identified within the *Liverpool Plains Growth Management Strategy* 2009 as being suitable for further residential development.

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

Council considers that a Planning Proposal is the best means of achieving the intended outcomes.

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* (SRLUP) was reviewed in relation to the Planning Proposal. It is considered that the proposed amendments are consistent with the purpose of the SRLUP, as future development of the subject land has been balanced with the protection of agricultural land and the sustainable management of resources. Furthermore, access to infrastructure required to support housing areas, including public transport, utilities and telecommunications, has been a key consideration.

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

As detailed above, the Planning Proposal is consistent with the objectives of Council's adopted Land Use Strategy - the *Liverpool Plains Growth Management Strategy* (2009).

Furthermore, the proposed amendment is considered to be consistent with the following key strategic directions and actions under the *Liverpool Plains Shire Council Community Strategic Plan*:-

- *To develop strategies that facilitate growth and guide Council toward ecological sustainability through responsible management of both natural and built environments.*
- *To be recognised as a leader in environmental management.*

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. 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. Although the subject site is not known to comprise Core Koala habitat or Potential Koala habitat, flora and fauna studies have found feed tree species (listed in Schedule 2 of this Policy) to be present.

Ecological attributes have been considered as part of the Planning Proposal and constraints are reflected through the minimum lot size framework. Suitable cleared land is available on each potential allotment to accommodate a residential dwelling and ancillary development without substantial clearing. Nevertheless, any future Development Application for further subdivision or the construction of a building on an allotment with a size equal or more than 1 hectare will be required to consider the terms of this Policy.

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.

There are no implications expected in terms of the application of the provisions of SEPP No. 55 to the Planning Proposal. None of the lands identified are known to be contaminated and are not included in the NSW Environment Protection Authority contaminated land register.

State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery of infrastructure across the State. It is noted that the study area is located in proximity to an existing rail network, the Main Northern Railway Line and is accessed via a classified main road - the Werris Creek Road (MR30).

The presence of this infrastructure has formed a consideration in the preparation of this Planning Proposal. Future development applications for dwelling houses (and other applicable uses) would be referred for the consideration of the Australian Rail Track Corporation (ARTC) and NSW Roads and Maritime Services (RMS) as required under the provisions of this SEPP.

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.*

Considering the existing fragmented nature of the subject allotments, as well as their proximity to the township of Quirindi, it is considered that the Planning Proposal is consistent with the Rural Planning Principles detailed as part of this Policy.

In terms of agricultural capabilities, the only allotment which may experience a restriction in terms of the scope of agricultural activities is Lot 12 DP 878120 (currently partly zoned RU1 and R1). However, existing agricultural land uses on this allotment currently comprise extensive agriculture, which is listed as permissible pursuant to the R5 Large Lot Residential land use table. This is appropriate considering the proximity of adjacent residential areas. Therefore, it is not considered that the Planning Proposal is inconsistent with the attainment of the objectives of this SEPP.

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 Table 3, below:

Table 3 - Consistency of the Planning Proposal with Section 117 Ministerial Directions

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. This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).	The subject Planning Proposal is not inconsistent with the terms of this Direction, as the land subject to this project will not be rezoned to a residential, business, industrial, village or tourist zone (noting that R5 Large Lot Residential is considered to be a 'rural' zone). Furthermore, the subject Planning Proposal is justified by the provisions of the GMS as well as two (2) ecological studies that have been prepared specifically in relation to this project.

Direction No.	Provisions	Consideration
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.
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	The proposed development has been considered in accordance with the Rural Planning 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 is identified as being capable of supporting future rural residential development by the provisions of the <i>Growth Management Strategy 2009</i>. Therefore, appropriate justification to the rezoning of the land is provided within an adopted strategy. Furthermore, the subject Planning Proposal is supported by two (2) ecological studies that have been prepared specifically in relation to this project (prepared by Stringybark Ecological and OzArk EHM).

Direction No.	Provisions	Consideration
1.5 Rural Lands <i>(continued)</i>	(i) Is approved by the Director-General of the Department of Planning and is in force, or (b) Is of minor significance.	The proposal is not expected to 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. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in an LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change in a development standard for minimum lot size in accordance with clause (5) of Direction 1.5 "Rural Lands". 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, or (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) is of minor significance.	This Planning Proposal includes provisions that facilitate the protection and conservation of environmentally sensitive areas through the adoption of suitable zones and minimum lot sizes. It is also proposed to activate Clause 5.9 of the LEP via an amendment to the <i>Liverpool Plains Shire Council Development Control Plan 2012</i> (LPDCP), in order to ensure the protection of significant trees, particularly those belonging to the <i>White Box – Yellow Box – Blakely's Red Gum Woodland</i> ecological community. Similarly, a range of development standards shall also be added to the LPDCP in order to ensure that future subdivision and dwelling applications have minimal impact on native flora and fauna species. While the Planning Proposal is inconsistent with this direction in that the environmental protection standards that apply to certain land within the study area will be reduced, the Planning Proposal has been prepared with regard to the recommendations of the <i>Growth Management Strategy 2009</i> as well as the recommendations of two (2) ecological studies that have been prepared specifically in relation to this project (prepared by Stringybark Ecological and OzArk EHM).

Direction No.	Provisions	Consideration
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.
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. Furthermore, an AHIMS search did not reveal any Aboriginal sites or places in or near the subject lands. 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. What a relevant planning authority must do if this direction applies A planning proposal must include provisions that encourage the provision of housing that will: (a) Broaden the choice of building types and locations available in the housing market, and (b) Make more efficient use of existing infrastructure and services, and (c) Reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) Be of good design. A planning proposal must, in relation to land to which this direction applies: (a) Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority have been made to service it), and (b) Not contain provisions which will reduce the permissible residential density of land.	The subject Planning Proposal will permit residential development which will be subject to the provisions of the <i>Liverpool Plains Development Control Plan 2012</i>. This document requires development to be adequately serviced and of good design. It is considered that the Planning Proposal is not inconsistent with this direction.

Direction No.	Provisions	Consideration
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 LEP permits home occupations to be carried out within the R5 and E4 zones without the need to obtain development consent. 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. What the relevant planning authority must do if this direction applies A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	As the Planning Proposal will create opportunities for further residential development this direction applies. <i>Improving Transport Choice – Guidelines for planning and development</i> and <i>The Right Place for Business and Services – Planning Policy</i> aim to reduce growth in the number and length of private car journeys and make walking, cycling and public transport use more attractive.

Direction No.	Provisions	Consideration
3.4 Integrating Land Use & Transport (<i>continued</i>)	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 objective of this direction, and (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, or (b) Justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or (c) In accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) Of minor significance.	The subject land is located in proximity to the township of Quirindi and adjoins an area approved for residential use. The dominant mode of public transport in the area is bus which provides access within Quirindi as well as to the surrounding region, while the train line links the township with the wider district. Nevertheless, the most common mode of transport for residents within the subject area is expected to be private motor vehicles, which is consistent with many rural and remote areas of Australia with low levels of public transport access. The Planning Proposal is not considered to be inconsistent with this direction as opportunities to utilise public transport will be available to residents, and the location of the subject area in proximity to Quirindi will allow for walking and cycling to town, if desired.
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.

Direction No.	Provisions	Consideration
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 lands affected by the Planning Proposal are not identified as containing acid sulphate soils.
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 lands affected by the Planning Proposal are not identified as being located within a designated mine subsidence district.
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 lands affected by the Planning Proposal are not identified as being subject to inundation by flooding.

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.	A small portion of Lot 316 DP 751009 is identified as being within the buffer zone of bushfire prone land. As such, consultation with the Commissioner of the NSW Rural Fire Service shall be undertaken following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act. Considering the scale of land identified as bushfire prone, future residential development is capable of complying with the provisions of <i>Planning for Bushfire Protection</i> 2006, and further subdivision of this allotment will require the General Terms of Approval of the NSW Rural Fire Service pursuant to Section 100B of the <i>Rural Fires Act</i> 1997.
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	As detailed above, a portion of the subject land is identified as being within the buffer zone of bushfire prone land. As such, the Planning Proposal will require referral to the NSW Rural Fire Service prior to undertaking community consultation in satisfaction of section 57 of the Act. The Planning Proposal is substantially consistent with the terms of this direction.

Direction No.	Provisions	Consideration
6.1 Approval and Referral Requirements <i>(continued)</i>	(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 (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.	<i>See comments, above.</i>

Direction No.	Provisions	Consideration
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.
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.	No schedule amendments (enabling clauses) are proposed as part of the Planning 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?

An Ecological Assessment was prepared for the area by Stringybark Ecological in August 2015, which develops upon an Ecological Constraints and Values Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd in February 2012. In response to the recommendations of these reports, a combination of R5 Large Lot Residential and E4 Environmental Living zoned land is proposed by the subject Planning Proposal. A suitable minimum lot size framework has also been identified following a review of land use patterns, the character of existing development in the study area and prevailing environmental and physical constraints. In this regard, a proposed minimum lot size of 2 hectares is allocated for those allotments zoned R5 Large Lot Residential, while a minimum lot size of 10 hectares is allocated for those allotments zoned E4 Environmental Living. To this end, it is not considered that the Proposal will adversely affect any critical habitat, threatened species, populations or ecological communities, or their habitats.

A copy of the Ecological Assessment prepared by Stringybark Ecological is included as Attachment A, while the Ecological Constraints and Values Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd is included as Attachment B.

Council also seeks to utilise the *Liverpool Plains Shire Council Development Control Plan 2012* (LPDCP) as a mechanism for the protection of threatened species, populations and ecological communities in the study area. This is to be achieved via a site specific amendment to the LPDCP to include controls for the removal of significant trees, as provided by Clause 5.9 ‘Preservation of trees or vegetation’ of the LEP. These controls will also be adopted in line with the findings and recommendations of the Stringybark Ecological report. Furthermore, it is proposed to include additional development standards in the LPDCP for dwellings and subdivisions in order to avoid any adverse environmental impacts in the study areas. For example, building envelopes will be required to be nominated and built within locations that will have minimal environmental impact on critically endangered flora and fauna species. Together, these controls are expected to provide a balance between the environmental, social and economic outcomes for the study area, and are likely to achieve similar results to the application of the ‘Terrestrial Biodiversity’ Clause from the standard LEP instrument.

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 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 development proposals with strategic planning merit. Furthermore, the requested modifications to the LEP will reflect the strategic objectives of the GMS.

Section D – State and Commonwealth interests

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

Extensive consultation has been undertaken with Council's Works Department regarding the capability of the subject lands to be serviced by reticulated water and sewer infrastructure. Existing services are capable of being extended in order to accommodate future development. Where augmentation of sewer services is not reasonable, adequate area exists for the on-site disposal and management of sewage.

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

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

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. As detailed in the body of this report, it is intended that formal consultation will be undertaken with the NSW Rural Fire Service upon gateway determination.

Part 4 - Mapping

The following maps will be affected by the Planning Proposal:

- Land Zone Maps:
 - LZN_004: 4920_COM_LZN_004_160_20120731
 - LZN_004C: 4920_COM_LZN_004C_020_20140821
- Lot Size Maps:
 - LSZ_004: 4920_COM_LSZ_004_160_20120731
 - LSZ_004C: 4920_COM_LSZ_004C_020_20140821

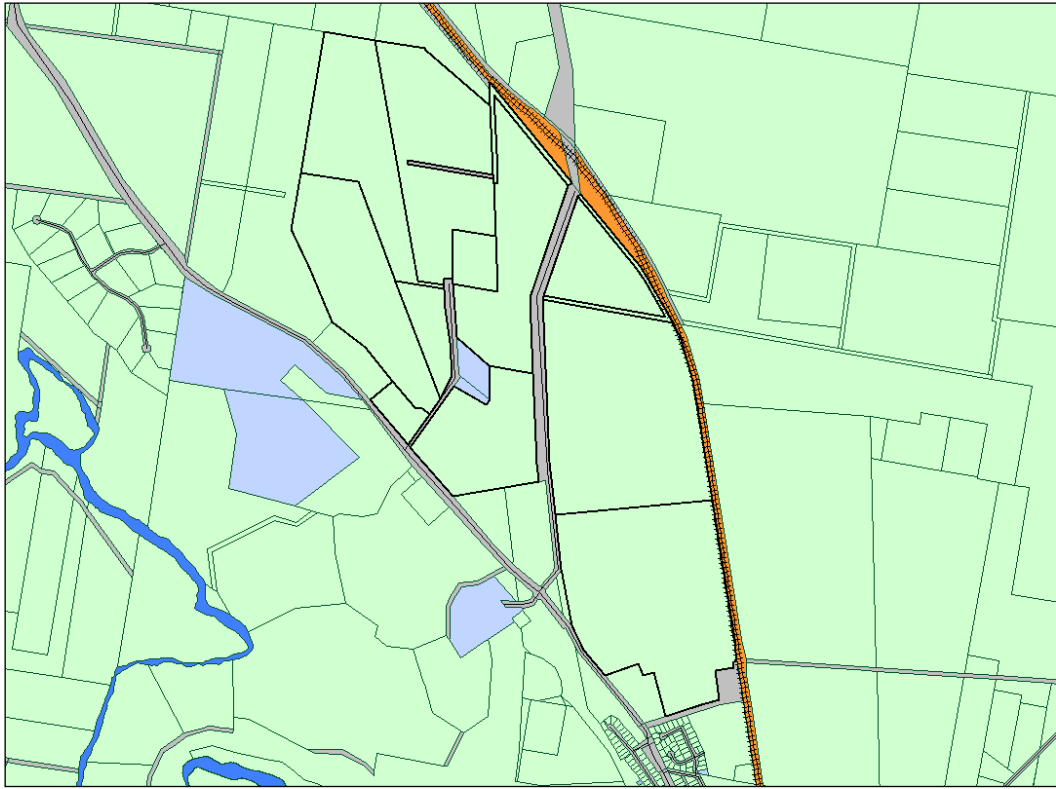


Figure 2 – Locality Map – Quirindi North Rural Residential Area

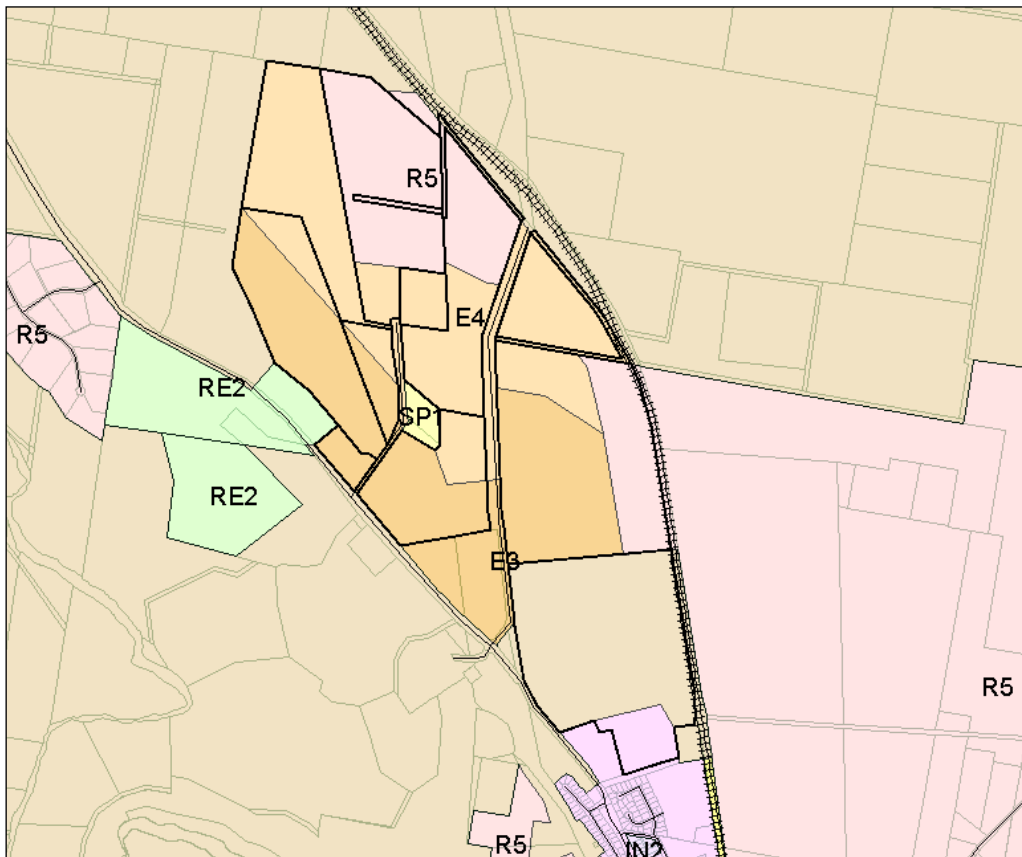


Figure 3 – Current Land Zoning Framework – Quirindi North Rural Residential Area

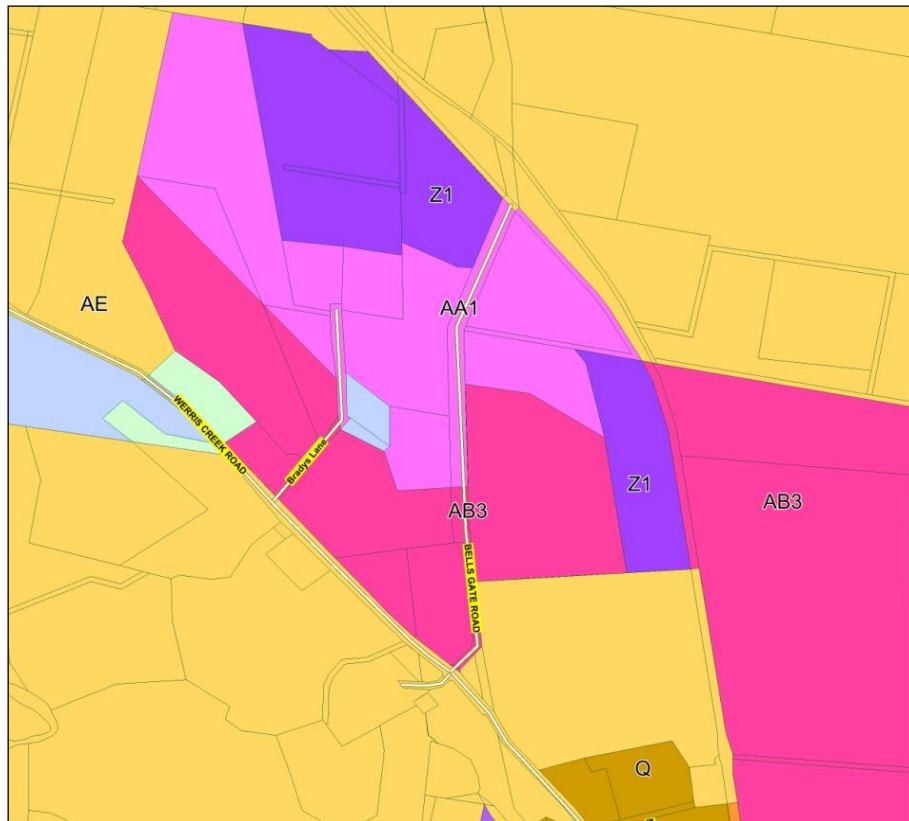


Figure 4 - Current Minimum Lot Size Framework – Quirindi North Rural Residential Area

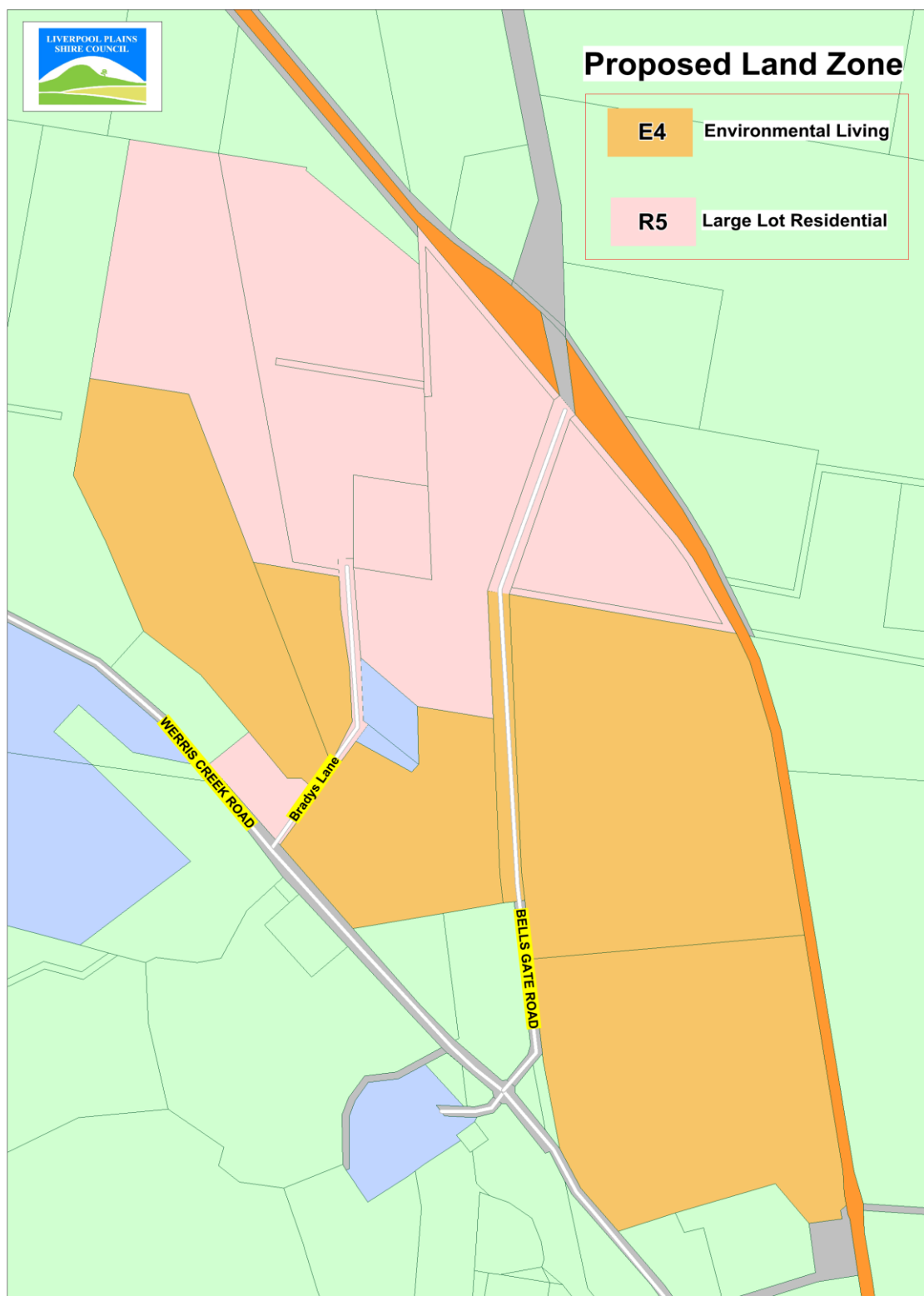


Figure 5 - Proposed Land Zoning – Quirindi North Rural Residential Area

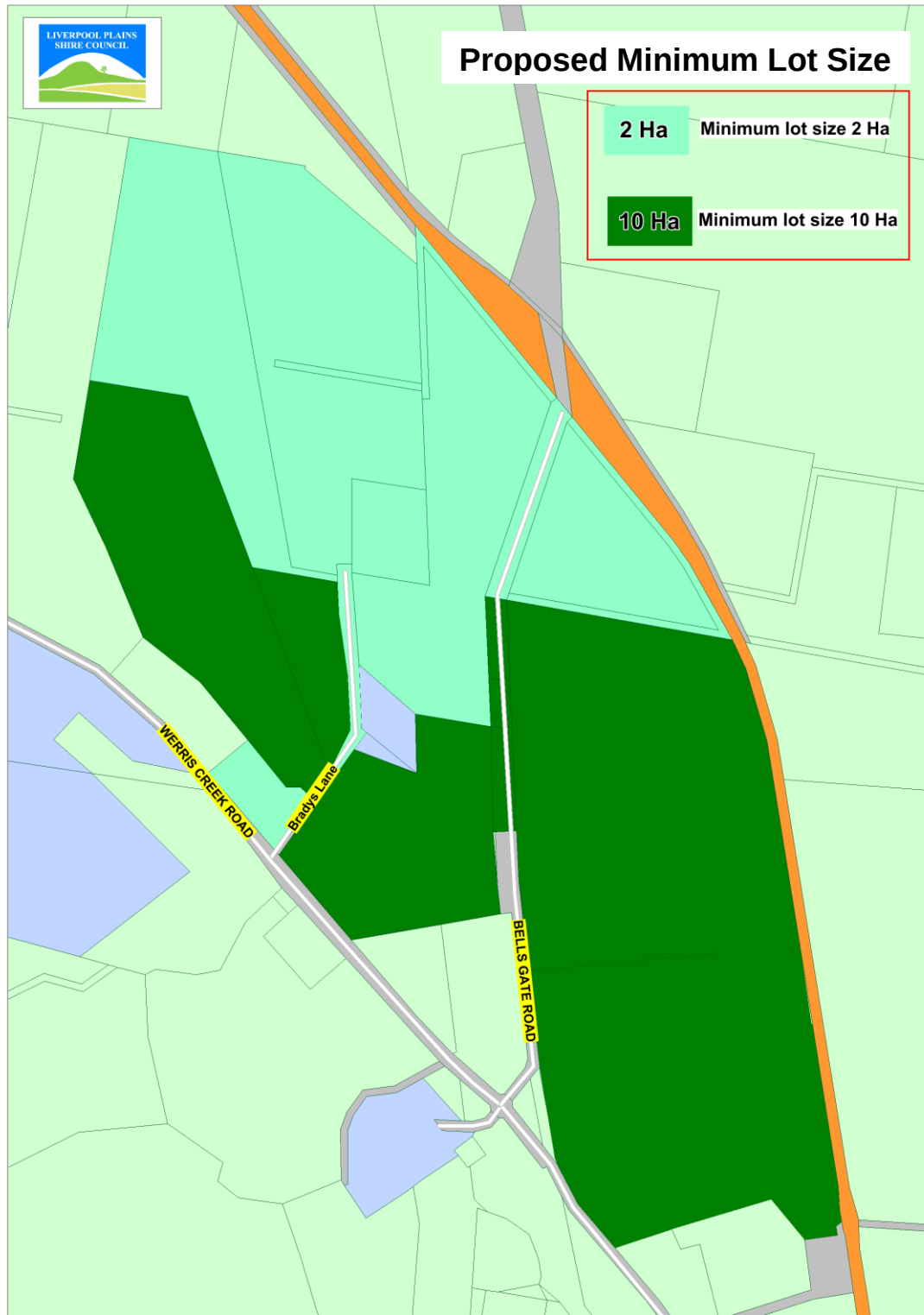


Figure 6 - Proposed Minimum Lot Size – Quirindi North Rural Residential Area

Proposal B: Rural Boundary Adjustments

Part 1 – Objectives or Intended Outcomes

The objective of this part of the Planning Proposal is to provide greater flexibility in relation to the subdivision of land zoned RU1 Primary Production, RU3 Forestry, RU6 Transition, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living by:

- Permitting boundary adjustment subdivisions where one or more allotments involved do not meet the minimum lot size specified for the subdivision of the land, subject to compliance with certain provisions; and
- Ensuring that existing dwelling eligibilities are not lost as a result of a boundary adjustment creating an undersized lot or lots.

Part 2 – Explanation of Provisions

In order to achieve the objectives of this part of the Planning Proposal, Council requests that a new provision be included in Part 4 of the LEP, as follows:

4.2C Boundary adjustments of land in certain zones

- (1) The objective of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances, to give landowners a greater opportunity to achieve the objectives of a zone.*
- (2) This clause applies to land in the following zones:*
 - (a) Zone RU1 Primary Production,*
 - (b) Zone RU3 Forestry,*
 - (c) Zone RU6 Transition,*
 - (d) Zone R5 Large Lot Residential,*
 - (e) Zone E3 Environmental Management, and*
 - (f) Zone E4 Environmental Living.*
- (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:*
 - (a) an increase in the number of lots.*
 - (b) an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.*
- (4) In determining whether to grant development consent for the subdivision of land under this clause, the consent authority must consider the following:*
 - (a) The existing uses and approved uses of other land in the vicinity of the subdivision,*

- (b) *whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) *whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,*
- (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),*
- (f) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*
- (g) *whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.*

(5) *This clause does not apply in relation to the subdivision under the Community Land Development Act 1989, the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act 1986.*

Part 3 – Justification

The LEP imposes significant limitations for subdivision in relation to rural boundary adjustments. Since the gazettal of the LEP in December 2011, Council has received a number of enquiries in relation to the adjustment of boundaries between rural and environmental zoned allotments where one or more of the lots are below the minimum lot size. In a number of cases there has been identified planning merit in that the adjusted lots would retain or enhance agricultural potential or environmental outcomes. However, the current provisions of the LEP do not allow for Council to consent to such applications regardless of the merit.

Section A – Need for the Planning Proposal

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

The Planning Proposal is not the result of any strategic study or report. Rather, the proposed amendment is in response to practical issues that have arisen due to the lack of flexibility in the provisions contained in the Standard Instrument – Principle Local Environmental Plan and subsequently the *Liverpool Plains Local Environmental Plan 2011*.

Prior to implementation of the Standard Instrument, the *Quirindi Local Environmental Plan 1991* and the *Parry Local Environmental Plan 1987* applied in the Liverpool Plains Local Government Area. Both these planning instruments allowed for the adjustment of boundaries between rural allotments in order to facilitate agricultural land uses, and there were no adverse impacts identified through the operation of these historical provisions. It is therefore considered appropriate that this provision be included in the current *Liverpool Plains Local Environmental Plan 2011*.

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

It is considered that the Planning Proposal to amend the adopted LEP is the most appropriate means by which to achieve the objectives and intended outcomes outlined above.

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 Planning Proposal is not site specific and will not result in additional development potential beyond that which already exists. It does however introduce flexibility to enable achievement of existing development potential. It is not inconsistent with the objectives and actions of the New England North West Strategic Regional Land Use Plan (SRLUP).

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

As the Planning Proposal is not site specific and does not result in any development potential beyond that which already exists, it is not expected that this Proposal will have any impacts on Council's adopted strategies.

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

As this Proposal is not site specific the majority of the State Environmental Planning Policies are not relevant, with the exception of *State Environmental Planning Policy (Rural Lands)* 2008. The Planning Proposal is considered to be consistent with the aims and objectives of this Policy, as it will facilitate the protection of agricultural and environmental resources while providing additional economic and social opportunities for the community. The proposed amendment is not expected to lead to land fragmentation or land use conflicts and will not create any additional dwelling opportunities beyond those that already exist. The objectives of the SEPP are maintained by the required considerations inherent in the proposed clause.

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

The Planning Proposal has been assessed against the relevant Section 117 Ministerial Directions, detailed in Table 4, below:

Table 4 - Consistency of the Planning Proposal with Section 117 Ministerial Directions

Direction No.	Provisions	Consideration
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. Liverpool Plains Shire Council local government area is not specified in Clause 2(b) as being required to comply with Clause 4(b). This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary). 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, or (b) Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or (c) In accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) Is of minor significance.	The Planning Proposal is consistent with this direction, as it will not enable an increase in density within the rural zones.

Direction No.	Provisions	Consideration
1.5 Rural Lands	When this direction applies This direction applies when: (c) 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 (d) 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: (c) Justified by a strategy which: (ii) Gives consideration to the objectives of this direction, (iii) Identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iv) Is approved by the Director-General of the Department of Planning and is in force, or (d) Is of minor significance.	The proposed development has been considered in accordance with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands) 2008 as detailed earlier within this report. It is considered that the Planning Proposal is not inconsistent with this direction.
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. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in an LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change in a development standard for minimum lot size in accordance with clause (5) of Direction 1.5 “<i>Rural Lands</i>”.	This Planning Proposal does not reduce the environmental protection standards applying to any land. It is therefore considered that the Planning Proposal is not inconsistent with this direction.

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. What a relevant planning authority must do if this direction applies A planning proposal must include provisions that encourage the provision of housing that will: (a) Broaden the choice of building types and locations available in the housing market, and (b) Make more efficient use of existing infrastructure and services, and (c) Reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) Be of good design. A planning proposal must, in relation to land to which this direction applies: (a) Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority have been made to service it), and (b) Not contain provisions which will reduce the permissible residential density of land.	The subject Planning Proposal will enable existing development potential to be realised. It is considered that the Planning Proposal is not inconsistent with this direction.
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.	As this Planning Proposal does not apply to any specific site, this direction does not apply in this instance.

Direction No.	Provisions	Consideration
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: (d) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (e) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (iii) the appropriate Minister or public authority, and (iv) 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 (f) not identify development as designated development unless the relevant planning authority: (iii) 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 (iv) 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.	This Planning Proposal is consistent with this direction. There is no concurrence, consultation or referral required in order to facilitate the proposed amendment.

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?

As this Planning Proposal is not site specific and does not give rise to any development potential beyond that which already exists, it is not expected that the amendment will have an adverse impact upon critical habitat or threatened species, populations or ecological communities, or their habitats. Detailed assessment of these effects (if any) will occur upon submission of a site-specific Development Application.

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

No direct adverse environmental impacts are expected to arise as a result of the Planning Proposal.

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

The proposal is predicted to have positive (albeit minor) social and economic effects as it intends to rectify a deficiency within the Standard Instrument LEP.

Specifically, the ability to rationalise property boundaries in rural areas to achieve desired outcomes, whilst preserving the ability to achieve the objectives of the agricultural zones is expected to have positive economic impacts.

Section D – State and Commonwealth interests

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

This Planning Proposal does not impact on the need for public infrastructure.

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

Consultation with relevant state authorities will occur where specified as part of the Gateway determination.

Part 5 – Community Consultation – Proposals A and B

It is anticipated that the Planning Proposal will address any issues of community interest, and it is considered appropriate to apply the recommended community consultation guidelines which include the following:

- An exhibition period of 28 days commencing on the date that a notice of exhibition is printed in the local news press.
- Advertising in the local newspaper at the start of the exhibition period.
- Advertising on Council's website and social media sites for the duration of the exhibition period.
- Targeted consultation with affected landholders in the Quirindi North Rural Residential Area.
- Targeted consultation with the Commissioner of the Rural Fire Service regarding the Quirindi North Rural Residential Area.

Part 6 – Project Timeline – Proposals A and B

Action	Indicative Date
Council Resolution	March 2016
Gateway Determination	April 2016
Government Agency Consultation	April 2016
Public exhibition Period	April 2016 – May 2016
Submission assessment	May 2016
RPA assessment of Planning Proposal and exhibition outcomes	May 2016 – June 2016
Liaison with Parliamentary Counsel and submission of endorsed LEP Amendment to Department of Planning and Environment for finalisation.	June 2016

Attachment A

Ecological Assessment prepared by Stringybark Ecological

Attachment B

Ecological Constraints and Values Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd