

**Liverpool Plains LEP 2011 Amendment No 4 - Quirindi North Rural Residential Area,
Boundary Adjustment Clause and Farm Buildings.**

Proposal Title :	Liverpool Plains LEP 2011 Amendment No 4 - Quirindi North Rural Residential Area, Boundary Adjustment Clause and Farm Buildings.		
Proposal Summary :	This Planning Proposal aims to: 1. Rezone land in the 'Quirindi North Rural Residential Area' for large lot residential purposes; 2. Amend the minimum lot size provisions for the 'Quirindi North Rural Residential Area'; 3. Amend the land use table for land zoned R5 Large Lot Residential to permit with consent 'farm buildings'; and 4. Introduce a new local clause to permit rural boundary adjustments on certain rural, residential and environmental zoned land where both lots are below the minimum lot size.		
PP Number :	PP_2016_LPLNS_002_00	Dop File No :	15/18037

Proposal Details

Date Planning Proposal Received :	06-Apr-2016	LGA covered :	Liverpool Plains
Region :	Northern	RPA :	Liverpool Plains Shire Council
State Electorate :	TAMWORTH	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	This Planning Proposal applies to 13 lots in the 'Quirindi North Rural Residential Area' as shown in attached documents; all land zoned R5 Large lot Residential, RU1 Primary Production, RU3 Forestry, RU6 Transition, E3 Environmental Management and E4 Environmental Living.		

DoP Planning Officer Contact Details

Contact Name :	Jon Stone
Contact Number :	0267016968
Contact Email :	jon.stone@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Donna Ausling
Contact Number :	0267461755
Contact Email :	donna.ausling@lpsc.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	344.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	80
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge. The Northern Region has not met with any lobbyists in relation to this proposal, nor has the Northern Region been advised of any meeting between other Departmental Officers and lobbyists concerning the proposal.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :			

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

The Liverpool Plains Growth Management Strategy 2009 (GMS) identified the land north of Quirindi as having potential for development for rural residential purposes. The GMS identified certain development constraints including native vegetation and potentially threatened species on the land. Council has undertaken environmental assessments of the area in 2012 and 2015 to identify options to protect sensitive areas whilst providing opportunities for development. This planning proposal seeks to rezone the land identified in the GMS to enable it to be developed for rural residential purposes.

The proposal seeks to include a boundary adjustment clause in the LEP that will enable boundary alterations to be made in certain circumstances between lots in the RU1 Primary Production, RU3 Forestry, RU6 Transition, R5 Large Lot Residential , E3 Environmental Management and E4 Environmental Living zones.

The proposal also seeks to amend the R5 Large Lot Residential zone land use table in order to permit the construction of 'farm buildings' with development consent.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objectives and intended outcomes of the Planning Proposal are adequately expressed for the proposed amendment to Liverpool Plains LEP 2011.

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

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

Comment : **The Planning Proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

The New England North West Strategic Regional Land Use Plan applies to the Liverpool Plains LGA.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Maps have been provided with the Planning Proposal. They show the current land zoning and minimum lot size and proposed land zoning and minimum lot sizes for the subject land.**

It is considered that the maps will be adequate for community consultation.

Maps prepared in accordance with the Department's technical mapping standards will need to be created before a Parliamentary Counsel's opinion can be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal recommends a 28 day consultation period including direct notification of the owners in the Quirindi North Rural Residential area, newspaper advertisement and web based advertising. This consultation period and approach is considered appropriate.**

Consultation will also be undertaken with the Commissioner of the Rural Fire Service regarding the Quirindi North Rural Residential Area.

It is also recommended that consultation also be undertaken with the RMS, NSW Office

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of Water, DPI Agriculture and OEH and the Australian Rail Track Corporation .

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:**

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time line.**

Council is not seeking an authorisation to exercise its plan making delegations. However, as the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council if the Planning Proposal is supported.

Council has provided a project time line which estimates that the LEP will be ready for notification in June 2016. To ensure an adequate period to complete the additional site investigations a 12 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Liverpool Plains LEP 2011 was made on 9 December 2011.**

Assessment Criteria

Need for planning proposal : **Quirindi North Rural Residential**

The Liverpool Plains Growth Management Strategy 2009 identified the subject land as being suitable for further rural residential development. The area was supported as the primary rural residential expansion area for Quirindi based on its proximity to the town, access to the area via Werris Creek Road and Bells Gate Road, the existing rural fringe development pattern and the site characteristics that make it favourable to development.

The proposed area to be rezoned surrounds a parcel of land zoned SP2 Waste or Resource Management Facilities. This land is not proposed to be rezoned by the Planning Proposal. This area is a former sanitary depot and is owned by Council. Council staff have advised there is no plan to use this site and it will remain vacant.

Council has advised that it considers that it is not necessary to provide any development buffer to the site. Since the former sanitary depot is no longer used and the potential for land use conflict with future residential developments on the adjoining land is minimal Council's decision not to impose a development buffer around the site is considered to be acceptable.

No contamination investigation has been included to support the Planning Proposal. Due to the historical use of this land as a sanitary depot there is a possibility that adjoining land

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which is proposed to be rezoned from E4 to R5 and from E3 to E4 may be contaminated. Given that the proposed changes to the zone and minimum lot size for this adjoining land is likely to result in an increased residential density over the land, it is recommended that a site contamination assessment be undertaken to determine if there is any contamination on land proposed to be rezoned.

The land is not flood prone and has the ability to be serviced with reticulated sewer and water infrastructure.

The area is not without development constraints due to the presence of Endangered Ecological Communities (EEC). An Ecological Assessment was prepared for the area by Stringybark Ecological in August 2015, which developed upon an earlier 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 has been proposed by Council with a suitable minimum lot size framework that has considered existing land use patterns and prevailing environmental and physical constraints.

It is considered that the proposed rezoning of the Quirindi North land will achieve a logical pattern of growth for Quirindi while having regard for ecological considerations. The proposed development will facilitate a range of housing choice in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.

Farm Buildings in R5

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 local economy, historical land use trends and current patterns of development. Council has also identified that the exclusion of 'farm buildings' in the R5 zone has also limited the potential for ancillary agricultural-allied development to be carried out on land zoned R5. This amendment will enable a range of ancillary farming development to be undertaken that complements rural-residential uses in the local area.

Boundary Adjustments

The Planning Proposal also seeks to include a new local provision to enable boundary adjustments to be undertaken in certain circumstances. Council has identified that currently the LEP imposes significant limitations for subdivision in relation to 'rural boundary adjustments'. Council has advised it has received a number of inquiries 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. Council is seeking to include a clause, similar to clauses found in other LEPs, that would increase flexibility for rural properties to adjust their boundaries between two lots that don't meet the minimum lot size standard in the RU1 Primary Production, RU3 Forestry, RU6 Transition, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living zones. It will not allow for the increase in the number of lots or dwellings as a result of a boundary adjustment and will be subject to a series of heads of consideration.

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Consistency with
strategic planning
framework :

New England North West Strategic Regional Land Use Plan

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

SEPPS

SEPP 55 Remediation of Land is relevant to the planning proposal. The land proposed to be rezoned for rural residential purposes is located next to a former sanitary depot. The potential exists for the sanitary depot to have caused soil contamination on adjoining land which is proposed to be rezoned from E4 to R5 and from E3 to E4. Given that the proposed changes to the zone and minimum lot size for this adjoining land is likely to result in an increased residential density over the land, it is appropriate that a preliminary contamination assessment be carried out prior to exhibition of the planning proposal.

The Planning Proposal is considered to be consistent with all other relevant SEPPs.

Section 117 Directions

Council have identified a range of s117 directions applying to this Planning Proposal. The Planning Proposal has been identified as being consistent with all applicable section 117 Directions except for Directions 2.1 Environmental Protection Zones, 3.1 Residential Zones and 4.4 Bushfire Prone Land. Below is a discussion on the applicable S117 Directions:

1.2 Rural Zones

This Direction applies to the Planning Proposal. The proposal is not inconsistent with the direction as does not rezone rural land to a residential, commercial or industrial zone. The rural land to which the planning proposal applies is to be rezoned to E4 Environmental Living. The proposed rezoning is consistent with The Liverpool Plains Growth Management Strategy which was endorsed by the then Director-General of the Department in October 2009.

1.5 Rural Lands

This Direction applies as the Planning Proposal will affect land within an existing rural or environment protection zone. The Proposal affects the land zoning, minimum lot size provisions and subdivision provisions of land in a rural and environmental protection zones. The change to the subdivision (boundary adjustment) provisions are considered minor due to the minimal impact it will have on rural land and the potential positive impact the provisions may have on the management of the land. The change in land zoning and minimum lot size provisions are justified by the endorsed GMS.

2.1 Environmental Protection Zones

This Direction applies as the Planning Proposal affects land zoned for environmental protection. The area of land zoned for environmental protection (E4 and E3) is proposed to be reduced as some of this land is being rezoned to R5 and E4.

The Ecological Assessment for the proposed Quirindi North Rural Residential area determined that:

- the area contains a critically endangered ecological community (White Box Grassy Woodland);
- no threatened species were identified during the survey but determined they could be present at other times;
- no Koalas or signs they were present on the site were identified during the survey;
- no critical habitat of threatened populations have been declared over the site.

The Ecological Assessment made a range of recommendations relating to the appropriate use of land, lot size provisions and use of a overlay and local clause to manage the environmental constraints on the land. These recommendations form the basis of the land zoning and lot size provisions for the area.

The Ecological Assessment recommended council consider using a Terrestrial Biodiversity clause in the LEP to provide additional controls on development in certain areas. Council

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has not proposed to include such a clause but instead utilise the existing provisions of Clause 5.9 Preservation of Trees of Vegetation and additional provisions in a Development Control Plan to manage the protection of significant vegetation.

It is recommended that the Ecological Assessment reports that support this Planning Proposal be forwarded to the Office of Environment and Heritage for consultation prior to the exhibition of the Planning Proposal to ensure that the proposed mechanisms (appropriate land zoning, minimum lot sizes and use of Clause 5.9 and a DCP) for managing the environmental constraints of the site are appropriate.

It is considered that the inconsistency with this Direction should not be agreed to until the RPA has consulted with the Office of Environment and Heritage.

3.1 Residential Zones

This Direction applies as the Planning Proposal affects land in an R5 residential zone (Lot 11 DP 878120). The proposal is inconsistent with this direction as it rezones land from R5 to E4 and increase the minimum lot size for the land from 2ha to 10 ha which will reduce the permissible residential density of the land. The inconsistency is considered to be justified as being of minor significance since the remainder of the lot is zoned E3 and this is proposed to be rezoned to E4 and have a 10ha minimum lot size applied. Therefore while the potential residential density of that part of lot 11 zoned R5 is being reduced, the potential residential density of the remainder of the lot will be increased.

4.3 Flood Prone Land is relevant to this planning proposal. While the Quirindi North rural residential area is not flood prone the proposed boundary adjustment clause will apply to rural and environmental protection zoned land that is flood prone. The proposal is not considered to be inconsistent with this direction as it is intended that the boundary adjustment clause will not result in the creation of new lots or opportunities for additional dwellings on flood prone land and therefore will not result in an increase in the development potential of flood prone land.

4.4 Bushfire Prone Land

This Direction applies as the Planning Proposal will affect land that is identified as bushfire prone. Some of the proposed rural residential release area is Bushfire prone. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

The planning proposal is otherwise consistent with the relevant section 117 directions.

Environmental social
economic impacts :

The proposed introduction of 'farm buildings' into the R5 zone as a permissible land use is not considered to have an adverse environmental, social or economic impact.

The proposed boundary adjustment clause will affect land zoned RU1 Primary Production, RU3 Forestry, RU6 Transition, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living that may contain threatened species, critical habitat or ecological communities. However, the potential outcomes from the clause are likely to benefit the management of these areas and any site specific impacts will be determined during the development application assessment process.

The Ecological Assessment for the proposed Quirindi North Rural Residential area determined that the area of land proposed to be zoned E4 contains trees or ground layer, or both associated with a critically endangered ecological community (White Box - Yellow Box - Blakely's Red Gum Woodlands). However the assessment concluded that it was not necessary to require management or restoration of this community and therefore an E4 zone is considered to be appropriate.

The Ecological Assessment recommends the inclusion of a biodiversity layer and a heads of consideration clause applying to the land mapped as containing the critically endangered community. Council has decided not to pursue this mechanism, instead

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relying on clause 5.9 of its LEP and a DCP applying to the land.

It is considered that this approach is acceptable. While a heads of consideration clause would address indirect impacts from all development requiring consent, the ecological assessment identifies that the land use that is most damaging to the endangered community is extensive agriculture which is permitted without consent in the E3 and E4 zones, and therefore would not trigger a heads of consideration clause. It is noted that the E3 and E4 zones are also subject to provisions of the Native Vegetation Conservation Act 2003. Additionally, any assessment of a development application for other land uses will need to take into account the impact of the proposed development on the environment, regardless of whether a terrestrial biodiversity overlay and provision applies to the land.

Noise. Some of the land proposed to be zoned R5 Large Lot Residential adjoins the rail corridor. A noise impact assessment has not been conducted to investigate the suitability of intensification of residential land uses in the vicinity of the rail corridor. This matter should be investigated further prior to community consultation.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture Department of Trade and Investment NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			
Resubmission - s56(2)(b) : No			
If Yes, reasons :			
Identify any additional studies, if required. :			
Heritage			
Other - provide details below			
If Other, provide reasons :			
The following studies are considered to be necessary:			
- Aboriginal Cultural Heritage			
- Noise impact assessment from the neighbouring railway corridor			
- Preliminary site contamination assessment for land in the vicinity of the old sanitary depot.			
Identify any internal consultations, if required :			
No internal consultation required			
Is the provision and funding of state infrastructure relevant to this plan? No			
If Yes, reasons :			

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Documents

Document File Name	DocumentType Name	Is Public
Quirindi North Ecological Assessment FINAL.pdf	Proposal	Yes
Quirindi North - Oz Ark Ecological Report FINAL.pdf	Proposal	Yes
Property Descriptions.pdf	Proposal	Yes
2016-04-06 Cover Letter.pdf	Proposal Covering Letter	Yes
2016-04-06 - Planning Proposal.pdf	Proposal	Yes
Subject Land.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

Additional Information : It is recommended that:

1. The Planning Proposal be supported;
2. The Planning Proposal be exhibited for 28 days;
3. The Planning Proposal be completed within 12 months;
4. That prior to community consultation the following site investigations are to be undertaken:
 - a preliminary contamination assessment be made of land that is proposed to be rezoned surrounding the land zoned SP2;
 - a noise assessment for the potential impact of noise from the rail corridor on future residential land uses; and
 - an aboriginal cultural heritage assessment.
5. That the Secretary's delegate notes that the inconsistencies with s117 Directions 2.1 Environmental Protection Zones and 4.4 Planning for Bushfire Protection are outstanding until consultation with the NSW Office of Environment and Heritage and the NSW Rural Fire Service has been completed;
6. That the Secretary's delegate determines that the inconsistency with s117 Direction 3.1 Residential Zones is justified in accordance with the terms of the direction;
7. That State agency consultation be undertaken with the Rural Fire Service, Office of Environment and Heritage, NSW Office of Water, DPI Agriculture and Roads and Maritime Services, and the Australian Rail Track Corporation; and
8. That a written authorisation for Council to exercise its plan making delegations be granted for this matter.

Supporting Reasons : This Planning Proposal will facilitate the development of land that has been identified by a endorsed Development Strategy in a manner that addresses the environmental constraints of the land.

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Signature:



Printed Name:

PAUL CARVETH

Date:

8/4/16

Acting Team Leader
NRM Region