

Liverpool Plains LEP 2011 – Rezoning 1172 New England Highway, Willow Tree

Proposal Title : **Liverpool Plains LEP 2011 – Rezoning 1172 New England Highway, Willow Tree**

Proposal Summary : **The planning proposal seeks to rezone 8 hectares of land at Lot 3 DP 1121681, 1172 New England Highway, Willow Tree from RU1 Primary Production to IN2 Light Industrial.**

PP Number : **PP_2017_LPLNS_001_00** Dop File No : **17/05819**

Proposal Details

Date Planning Proposal Received : **10-Apr-2017** LGA covered : **Liverpool Plains**

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

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

LEP Type : **Spot Rezoning**

Location Details

Street : **1172 New England Highway**

Suburb : **Willow Tree** City : Postcode : **2339**

Land Parcel : **3/DP1121681**

DoP Planning Officer Contact Details

Contact Name : **Kate Hanson**

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RPA Contact Details

Contact Name : **Jack Massey**

Contact Number : **0267461755**

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DoP Project Manager Contact Details

Contact Name : **Gina Davis**

Contact Number : **0267019687**

Contact Email : **Gina.Davis@planning.nsw.gov.au**

Land Release Data

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

Regional / Sub Regional Strategy : Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release (Ha) **8.00**

Type of Release (eg

Employment Land

:

Residential /

Employment land) :

No. of Lots : **0**

No. of Dwellings **0**

(where relevant) :

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of

Conduct has been

complied with :

If No, comment :

To the best of the knowledge of the regional team, the Department's Code of Practice in relation to the communications and meetings with Lobbyists has been complied with. Northern Region has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal

Have there been **No**

meetings or

communications with

registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting

Notes :

External Supporting

Notes :

Adequacy Assessment

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

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

Comment :

The statement of objectives describes the intention of the planning proposal. The proposal intends to rezone Lot 3 in DP 1121681, known as 1172 New England Highway, Willow Tree from RU1 Primary Production to IN2 Light Industrial.

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

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

Comment :

The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

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

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

d) Which SEPPs have the RPA identified?

**SEPP No 30—Intensive Agriculture
SEPP No 33—Hazardous and Offensive Development
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 64—Advertising and Signage
SEPP No 65—Design Quality of Residential Flat Development
SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008**

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

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal included mapping attachments which adequately shows the proposed and existing zoning maps. These maps will need to be exhibited with the planning proposal. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The Planning Proposal indicates that community consultation will be undertaken and nominates a 28 day consultation timeframe.**

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is a low impact planning proposal due to the rural industrial nature of the existing site. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners.

It is therefore considered that a community consultation period of 14 days is appropriate.

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of

the planning proposal in August 2017. To ensure the RPA has adequate time to complete the exhibition, reporting, and legal drafting, it is recommended that a time frame of 9 months is appropriate.

Delegation

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

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

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

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Liverpool Plains LEP 2011 has been in force since 9 December 2011.

Assessment Criteria

Need for planning proposal :

The subject land has an area of approximately 8ha and is located 1km south of Willow Tree on the New England Highway and is currently zoned RU1 Primary Production. It currently accommodates a truck depot (Howard's Haulage) that has operated on the site for 30 years and a grain handling facility operating for approximately 20 years. The site also has approval for a 24hr self-service 'high flow' diesel service station. Access to the site is provided by the New England Highway in the form of a bitumen sealed access node approximately 24 metres wide.

The proposal seeks to rezone the land from RU1 Primary Production to IN2 Light Industrial Zone to facilitate a wider range of industrial activities, with development consent, on the subject land. It is considered the proposed zone is commensurate with current uses on the site, being a truck depot and grain handling facility, and would permit a wider range of ancillary activities. The planning proposal is considered to be the best way to achieve the intended outcomes of the site.

The site was also the subject of Amendment No. 5 to Liverpool Plains Local Environmental Plan (LEP) 2011 which comprised a site-specific enabling clause, pursuant to Schedule 1 "Additional Permitted Uses" of the LEP, to facilitate the construction of the service station with development consent.

Given a 'service station' will be permissible under the proposed zoning and that land use permissibility is preferably controlled by zoning and the Land Use Table, it is considered the use of Schedule 1 and the Additional Permitted Use Map is no longer necessary and the planning proposal should be amended to reflect this.

Consistency with strategic planning framework :

New England North West Strategic Regional Land Use Plan (SRLUP)

The New England North West Strategic Regional Land Use Plan is a whole of Government plan which outlines a range of key challenges facing the New England North West region and lists clear actions to address these challenges. The proposal is consistent with the actions and outcomes of the SRLUP. Specifically, the proposal is consistent with Action 5.2 5 which stipulates local councils will zone land through their local environmental plans to ensure an adequate supply of employment land.

Draft New England North West Regional Plan

The draft New England North West Regional Plan (the draft Plan) consolidates strategic planning considerations for land use and infrastructure for the local government areas of the New England North West. It provides an overarching framework to guide development and investment in the area.

Direction 1.3 of the draft Plan seeks to protect agricultural land from encroachment and fragmentation. It is considered the proposal is not inconsistent with this Direction given the current and approved land uses on the site, which are commensurate with the IN2 Light Industrial zone. Moreover, the site is not identified as Biophysical Strategic Agricultural Land.

Direction 4.3 of the draft Plan is to provide well-located and serviced supply of industrial and employment lands to help drive employment potential and support existing and emerging industries. The proposal notes that it is likely to achieve positive social and economic effects, particularly through further employment opportunities on the land. It is considered the proposal is consistent with this Direction and with the vision for New England North West.

Liverpool Plains Growth Management Study and Strategy (GMSS)

The proposal is not inconsistent with the objectives and outcomes of the Liverpool Plains Growth Management Study and Strategy (GMSS) which was endorsed by the Department on 14 October 2009. The GMSS recommends that Willow Tree be limited to the current RU5 Village and that no expansion occur outside of the village zone. As Willow Tree is unlikely to expand towards the site, and given the existing uses on the site, rezoning the land is unlikely to have an effect on the future vision of the village.

The Planning Proposal is considered to be consistent with all the relevant State Environmental Planning Policies.

Section 117 Directions

A number of S117 Directions apply to this Planning Proposal. The proposal is consistent with all relevant S117 Directions except in relation to the following:

Direction 1.1 Business and Industrial Zones. The proposal is inconsistent with this Direction as the proposed new employment area is not in accordance with an approved strategy. However it is considered of minor significance given the existing and approved uses on the site.

Directions 1.2 Rural Zones. The proposal is inconsistent with this Direction as it seeks to rezone RU1 Primary Production to IN2 Light Industrial. It is considered that the inconsistency is of minor significance due to the current and approved land uses on the site (truck depot, grain handling facility and service station) and the site not being used for agriculture purposes for a substantial period of time.

Direction 4.4 Planning for Bushfire Protection. This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. 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.

Environmental social
economic impacts :

ENVIRONMENTAL

The proposal is not expected to have any adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

The land is not flood prone but is identified as being bushfire prone. Consultation with the NSW Rural Fire Service is required under Section 117 Direction 4.4. It is considered unlikely that the impact of bushfires would prevent this rezoning progressing.

Traffic Impacts

Access to the site is via New England Highway and consultation with the RMS is recommended. It is not anticipated that the access to the property will prevent the rezoning of land given the current uses of the site. Any necessary upgrade to the intersection or road can be adequately assessed and determined at the DA Stage.

SOCIAL AND ECONOMIC

The planning proposal has given consideration to social and economic impacts of the proposed amendment. The proposal states that the IN2 Light Industrial zoning will facilitate further employment opportunities on the land therefore resulting in a net economic and social benefit.

Due to the existing nature and use of the site, it is not considered likely to have any direct adverse landuse conflict or effect on the natural, built or socio-economic environment.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required.:

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Cover.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council Resolution - Proposed LEP Amendment No. 6.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 3.4 Integrating Land Use and Transport
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 6.1 Approval and Referral Requirements
 - 6.3 Site Specific Provisions

Additional Information : It is recommended that the planning proposal proceed subject to the following conditions:

1. Prior to the commencement of community consultation, Council is to update Parts 1 and 2 of the Planning Proposal to:
 - a) incorporate the removal of clause 1 "Use of certain land at New England Highway, Willow Tree" from Schedule 1, including an explanation as to why the use of Schedule 1 is no longer necessary;
 - b) reference the required removal of 'Additional Permitted Uses' Map under 'Part 4 Mapping';
 - c) include a site identification map and current APU mapping of a suitable size and scale; and
 - d) include a plain English explanation of the intended provisions.
2. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - a) Roads and Maritime Services
 - b) Rural Fire Service
3. Community Consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - a) The planning proposal must be made publicly available for a minimum of 14 days;
 - b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2016).
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

It is also recommended that:

6. The Secretary's delegate determines that the inconsistencies with s117 Direction 1.1 Business and Industrial Zones and 1.2 Rural Zone are justified as they are of minor significance.

7. The Secretary's delegate note the outstanding inconsistency of the proposal with s117 Direction 4.4 Planning for Bushfire Protection and;

8. That a written authorisation to exercise plan making delegations be issued to Liverpool Plains Shire Council.

Supporting Reasons :

The reasons for the recommendation are as follows:

1. The land is relatively unconstrained and the proposed zoning is commensurate with the existing and approved land uses.
2. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Anna Davis

Date:

24/4/17