



FACT SHEET— ‘EXISTING HOLDINGS’

How is development in the Shire governed?

There are a wide range of legislative requirements that aim to guide development within NSW in order to ensure that it is both appropriate and desirable. One of the key pieces of legislation used by Liverpool Plains Shire Council is the *Liverpool Plains Local Environmental Plan 2011*, commonly known as the ‘LEP’. The LEP applies across the whole of the Council area and is the legal document which specifies the planning rules and regulations for a range of development in the Shire.

What provisions exist in relation to rural dwellings?

The permissibility of the construction of a dwelling house in the Shire is detailed in Clause 4.2A of the LEP. This clause states that development consent must not be granted for the erection of a dwelling house on land zoned RU1 Primary Production, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living, on which no dwelling house has been erected, unless:

- The land is a certain size;
- The land is a lot resulting from an approved subdivision of Council; or
- The land comprises an existing holding.

This fact sheet will focus on the existing holding provisions detailed within the LEP.

Why are the existing holding provisions included in the LEP and how are they investigated?

The existing holding provisions were included in the LEP in 2011 in order to regulate the construction of dwellings in rural and environmental areas, to prevent land fragmentation and protect our valuable agricultural resources. These provisions directly relate to the historic ownership of land at a certain date, specified by Clause 4.2A of the LEP. It must be stressed that the existing holding status of an allotment does not relate to current land ownership, it only relates to ownership at the specified date. This information may be held in a number of places, such as on the Title of the Land, Council’s historic rates books or on old parish maps. Due to historic Council amalgamations and the passage of time, not all of this information is held by Liverpool Plains Shire Council. In many instances, there is insufficient information to determine whether an allotment is considered to be an existing holding.

Due to the complexity of establishing whether a property constitutes an existing holding, ‘minimum lot size’ maps were introduced as part of the LEP in 2011 as a more efficient way to protect rural and environmental lands. While the existing holding provisions were retained as a transitional arrangement, a time limit of five (5) years was incorporated into the LEP in order to allow landholders time to lodge requisite application/s seeking consent for the construction of a dwelling.



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What could this mean for me?

Due to the abovementioned time limit imposed on the existing holding provisions, the opportunity to construct a dwelling via this path will be extinguished on 9 December 2016.

As this provision is detailed in the LEP, being the statutory (legal) document for development within the Liverpool Plains region, consent will not legally be able to be issued for an application lodged for the construction of a dwelling via existing holding provisions after 9 December 2016. Furthermore, there will be no opportunity for Council to extend this timeframe. Although there are alternative methods by which landowners may have the entitlement to construct a dwelling on certain rural and environmental allotments, a dwelling entitlement may be lost if the allotment does not meet the minimum lot size criteria or is not an approved subdivision of Council.

What should I do now?

If you own a rural or environmental zoned allotment that does not have a dwelling, and you are intending to construct a dwelling in the future, it is recommended that you contact Council in order to determine the options available to you. Council’s Fact Sheet Number 4 relates to rural dwellings, and includes a form that can be completed to action this request. A fee of \$250 will apply.

If it is determined that your property constitutes an existing holding, you will need to lodge an application with Council for assessment prior to 9 December 2016. This application could comprise detailed dwelling specifications or, alternatively, could seek consent for a ‘building envelope’. If development consent is issued by Council, the application will be required to be acted upon within five (5) years.

What if I do not investigate this matter before 9 December 2016?

After 9 December 2016, a dwelling can only be erected on land zoned RU1 Primary Production, R5 Large Lot Residential, E3 Environmental Management and E4 Environmental Living if the allotment complies with the minimum lot size or was created via an approved subdivision of Council.

Who can I speak to in relation to this matter?

For further information in relation to this matter, you are invited to contact Council’s Environmental Services Department during duty planning hours, being Monday—Friday between 9am and 12.30 on (02) 6746 1755. Alternatively, an email can be sent to lpsc@lpsc.nsw.gov.au.



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