

Lismore LEP 2012 - Rezoning of 4 Blue Knob Road, Nimbin to Large Lot Residential

Proposal Title : **Lismore LEP 2012 - Rezoning of 4 Blue Knob Road, Nimbin to Large Lot Residential**

Proposal Summary : **The planning proposal seeks to amend Lismore LEP 2012 by rezoning part of Lot 11 DP 1182866, 4 Blue Knob Road, Nimbin from RU1 Primary Production to R5 Large Lot Residential and applying a 2500m2 and 4000m2 minimum lot size and 8.5m maximum building height to the land being rezoned R5, to enable the land to be developed for rural residential purposes.**

PP Number : **PP_2017_LISMO_002_00** Dop File No : **17/03347**

Proposal Details

Date Planning Proposal Received :	07-Mar-2017	LGA covered :	Lismore
Region :	Northern	RPA :	Lismore City Council
State Electorate :	LISMORE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	4 Blue Knob Road		
Suburb :	Nimbin	City :	Postcode : 2480
Land Parcel :	Part of Lot 11 DP 1182866		

DoP Planning Officer Contact Details

Contact Name : **Duncan Howley**
 Contact Number : **0266416531**
 Contact Email : **duncan.howley@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Sally Slater**
 Contact Number : **0266250407**
 Contact Email : **sally.slater@lismore.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**
 Contact Number : **0266416610**
 Contact Email : **tamara.prentice@planning.nsw.gov.au**

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :

Date of Release :

Area of Release (Ha) 10.00

Type of Release (eg
Residential /
Employment land) :**Residential**

No. of Lots : 0

No. of Dwellings 15
(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 : **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.**Have there been No
meetings or
communications with
registered lobbyists? :If Yes, comment : **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.****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 amend Lismore LEP 2012 to permit rural residential development over part of the land.****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. The proposal intends to amend the Land Zoning Map, Lot Size Map, and Height of Buildings Map, to apply appropriate zones and other planning controls to the land. The explanation of provisions also includes a reference to a 10ha minimum lot size, however the mapping and discussion in the Planning Proposal do not reflect this matter. Council has confirmed that it relates to potentially allowing a dwelling on the rural residue lot east of the rezoning. This matter is discussed further below.****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

* May need the Director General's agreement

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

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

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 (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 :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days.

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 as it is consistent with the pattern of surrounding land use zones and consistent with the strategic planning framework. 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 adequate and affected and adjoining properties should be notified in writing. However there is no impediment to Council conducting a longer community consultation.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Lismore LEP 2012 is in force. This planning proposal seeks an amendment to the Lismore LEP 2012.**

Assessment Criteria

Need for planning proposal :

The proposal results from the outcomes of Council's Growth Management Strategy 2015-2035. This Strategy identified land at the subject allotment for potential large lot residential development. The owners of the subject land have initiated a planning proposal for the rezoning of Lot 11 DP 1182866, 4 Blue Knob Road, Nimbin in accordance with this strategy.

The subject land is approximately 40 hectares in size and is located across both sides of Blue Knob Road. The land is currently zoned RU1 Primary Production and consists of gently undulating exotic grassland and intermittent creeks, the land is currently used for cattle grazing. The part of the land that is the subject of this rezoning is to the south of Redcotes Rd and east of Blue Knob Road. The residue land will remain zoned RU1 Primary Production and is mostly open grassland.

A single dwelling and farm sheds are located on the portion of land for rezoning. In addition to the current RU1 zoning, there is a 40 hectare minimum lot size (MLS) and no maximum building height.

The other land uses in the general vicinity of the site include primary production and village. The land to the west, north and east of the site is predominantly grazing land. To the south of the site is within 1km of Nimbin, a rural village area zoned RU5.

The area identified for rezoning does not contain regionally or state significant farmland, and is not prone to landslip or geotechnical instability. The land is partly bushfire prone along the southern boundary in the vicinity of existing riparian vegetation.

The Lismore Rural Flood Hazard Mapping, 2013 identifies that parts of the site may be subject to flood risk. A flood risk assessment is required, with the planning proposal amended accordingly, post-Gateway determination and prior to public exhibition to determine consistency with Section 117 Direction 4.3 Flood Prone Land.

Following a site inspection by Council's ecologist, the area subject to the rezoning has been confirmed as having low ecological value as the site has previously been cleared of native vegetation and currently supports exotic pastures. The site visit also confirmed an absence of Koala habitat or mature Koala feed trees on the part of the site proposed to be rezoned.

The planning proposal seeks to:

- **Rezone part of Lot 11 DP 1182866 from RU1 to R5;**
- **Apply a 4000m2 and 2500m2 minimum lot size (MLS); and**
- **Apply a 8.5m maximum building height;**

The application of a 2500m2 and 4000m2 MLS will promote housing choice and diversity in the local market. It also allows the provision of on-site wastewater systems to be located at least 100m from permanent watercourses.

The proposal seeks to retain the RU1 Primary Production zone over the remainder of Lot 11 DP 1182866. This residual land contains regionally significant farmland and is prone to flooding. As it is not identified for urban release in the Lismore's Local Growth Management Strategy 2015-2035, the current zoning is considered appropriate. As indicated previously, Council has confirmed that they wish to explore the possibility of

permitting a dwelling on the residue east of the rezoning. Part of this land was identified in the Strategy for potential rural residential development and it is therefore considered reasonable that further investigation be permitted to confirm the suitability of a potential dwelling.

The proposal to rezone the land is the best means of achieving the intent of the proposal which is to enable part of Lot 11 DP 1182866 to be developed for rural residential purposes.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal is consistent with the actions and outcomes in the FNCRS. The FNCRS states that rural residential development will be located close to centres with an adequate level of services. The subject site is a logical transition from a village centre to rural land uses. The site is located within 1km of Nimbin centre and the associated village services. The site has road frontage, however water will be obtained through rainwater tanks and an on-site waste water management system will be necessary which is appropriate for rural residential development. Council's Section 94 contributions plan applies to the site and contributions for public infrastructure will be required for the additional rural residential lots.

The FNCRS requires that new rural residential development will only be permitted in non-coastal areas and then only in accordance with an approved local growth management strategy. The site is not located within the coastal area and is identified for rural residential purposes in Council's Growth Management Strategy 2015-2035.

Draft North Coast Regional Plan

The proposal is consistent with the Draft North Coast Regional Plan (the 'Draft RP'). The Draft RP provides that new rural residential development shall only be permitted where it is located outside of the coastal area and in accordance with an approved strategy. The proposal is consistent with these requirements as the site is not located within the coastal area and has been identified for rural residential purposes by Council's Local Growth Management Strategy 2015-2035.

Consistency with Council's Local Strategies.

Lismore's Local Growth Management Strategy 2015-2035 (the 'LGMS')

The proposal is consistent with the LGMS. The LGMS identifies that there is currently 5-6 years supply of R5 zoned land remaining in the Lismore LGA. An additional 438 hectares of R5 zoned land is projected to be required over the 20 year life of the LGMS. The LGMS identifies the subject land for potential large lot residential purposes. The LGMS was approved by the Department's Executive Director, Regions on 11 August 2015.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. The proposal is consistent with these SEPPs.

SEPP 44 Koala Habitat Protection

The proposal states that Council's GIS mapping does not identify the site as containing Koala habitat. Council's ecologist has advised that the part of the site being rezoned does not contain any Koala preferred feed trees. The impacts of future developments on koala habitat will be addressed at development application stage where relevant.

SEPP 55 Remediation of Land

The proposal states that a preliminary contaminated land assessment has not been undertaken and suggests that a preliminary assessment should be completed prior to public exhibition. This is considered to be appropriate as it will enable the planning proposal to be amended if necessary prior to public exhibition.

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) contains Rural Planning Principles to guide development on rural land. It is considered the proposal is consistent with the Rural Planning Principles. The land is not identified as State or regionally significant farmland. The use of the site for rural residential purposes is not considered to have the potential to significantly increase land use conflict with nearby agricultural land uses. The use of the land for rural residential purposes is also consistent with an approved growth management strategy. It is also noted that Council intends to refer the proposal to the Department of Primary Industries for comment.

The proposal is otherwise consistent with State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.2 Mine Subsidence and Unstable Land, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 1.2, 2.3, 3.1, 4.3 and 4.4.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to a residential zone. The planning proposal seeks to rezone part of the subject land from RU1 Primary Production to R5 Large Lot Residential. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The land to be zoned R5 is identified in the Lismore Growth Management Strategy 2015-2035 as potential large lot residential land. The Lismore Growth Management Strategy 2015-2035 was approved by the Executive Director, Regions in August 2015. It is considered that the inconsistency of the proposal with the direction is justified by an approved strategy and therefore has been justified in accordance with the terms of the direction.

Direction 2.3 Heritage Conservation is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of items and places of heritage significance. The proposal indicates that preliminary investigations into Aboriginal and European Heritage have not yet been undertaken on the site. Council has indicated in its planning proposal that an Aboriginal and European cultural heritage assessment should be prepared prior to public exhibition. It is therefore considered that any inconsistency of the proposal with this direction cannot be resolved until the heritage assessment has been completed.

Direction 3.1 Residential Zones is relevant to the planning proposal. The direction provides that a planning proposal must include provisions that encourage the provision of housing that will reduce the consumption of land for housing and associated urban development on the urban fringe. The subject site is on the periphery of the Nimbin village centre and represents the urban fringe. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

Separation is provided between the village and the site by Mulgum Creek. The proposed zoning of R5 Large Lot Residential provides an effective transition between village and agricultural land uses. The land to be zoned R5 is identified in the Lismore Growth Management Strategy 2015-2035 as potential large lot residential land. The Lismore Growth Management Strategy 2015-2035 was approved by the Executive Director, Regions in August 2015. It is considered that the inconsistency of the proposal with the direction is justified by an approved strategy and therefore has been justified in accordance with the terms of the direction.

Direction 4.3 Flood Prone Land is relevant to the proposal. The Lismore Rural Flood Hazard Mapping, 2013 identifies that parts of the site may be subject to flood risk. It is therefore considered appropriate that a flood risk assessment be required prior to exhibition. Until a more detailed flood risk assessment has been undertaken and consultation occurred with the NSW Office of Environment and Heritage, the inconsistency of the proposal with the direction remains unresolved.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Areas of the subject land are identified as being bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan

must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

An ecological assessment has not been undertaken for the subject land. It is stated that Council's ecologist has undertaken an inspection and identified that the lot contains the vulnerable plant Hairy Joint Grass and a number of mature Tallowwood trees which are a preferred Koala feed tree. Both of these species however were located on the area not proposed for rezoning through this proposal and will be retained as RU1 Primary Production.

The site appears to contain riparian vegetation adjacent to Mulgum Creek on the south of the allotment. Limited details have been provided on the composition of this vegetation or its ecological value. The report recommends technical reporting on ecology post-Gateway determination should consist of a fauna habitat assessment. Consultation with the Office of Environment and Heritage is recommended and a broader assessment of the significance and ecological value of the flora and fauna on the site is required post-Gateway.

The Lismore Rural Flood Hazard Mapping, 2013 identifies that parts of the site may be subject to flood risk. A detailed flood risk assessment is required to determine the flood risk on the site and inform any amendments to the Planning Proposal prior to public exhibition.

The land to be rezoned does not contain acid sulphate soils and is not identified as state or regionally significant farmland in the Northern Rivers Farmland Protection Project Final Recommendations 2005.

Parts of the site are bush fire prone, and a bushfire hazard assessment has been prepared to support the proposal. This should be referred to the RFS for comment.

The proposal identifies that the rezoning will result in an estimated 15 additional lots. The applicant has advised that this could result in an additional 70 vehicle trips per day. Council has reviewed the traffic impacts and concludes that no significant impact is likely and that this matter can be addressed adequately at the development application stage. This is considered to be appropriate.

The proposal will have a positive economic and social impact through the release of land for residential development. Consistent with other land identified in the Lismore Growth Management Strategy 2015-2035 the land is located within 1km of a village and services to ensure residents can connect to existing social and community services.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 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 NSW Rural Fire Service		

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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. :

Flora

Fauna

Heritage

Bushfire

Flooding

Other - provide details below

If Other, provide reasons :

Preliminary site contamination report

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
2017-02-21 Planning Proposal.pdf	Proposal	Yes
2017-02-21 Council report 14 February 2017.pdf	Proposal	Yes
2017-02-21 Letter to DPE requesting Gateway Determination.pdf	Proposal Covering Letter	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**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.2 Mine Subsidence and Unstable Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information :

- 1. The planning proposal proceed as a 'routine' planning proposal.**
- 2. Prior to community consultation the following site investigations are to be undertaken and placed on public exhibition with the planning proposal:**
 - a. An Aboriginal cultural heritage study;**
 - b. A preliminary contaminated land assessment;**
 - c. A bushfire assessment.**

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- d. A flora and fauna assessment
- e. A flood risk assessment report
3. Prior to community consultation the planning proposal is to be amended as follows:
 - a. To incorporate any necessary changes to the proposal arising from the additional site investigations or consultation with State agencies or organisations.
 - b. To address potentially permitting a dwelling on the RU1 Primary Production residue east of the rezoning and the mechanisms to excise this land from the R5 zoned land.
 - c. To update the explanation of provisions to maintain consistency with the proposed mapping.
4. A community consultation period of 14 days.
5. The planning proposal is to be completed within 12 months.
6. The RPA is to consult with the following State agencies and organisations;
 - a. Rural Fire Service;
 - b. Department of Primary Industries;
 - c. Office of Environment and Heritage; and
 - d. The Local Aboriginal Land Council
7. A written authorisation to exercise delegation be issued to Lismore City Council.
8. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2, 1.5, and 3.1 are justified in accordance with the terms of the direction. Inconsistencies with S117 Directions 2.3, 4.3 and 4.4 remain unresolved.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will contribute to the Identified demand for R5 zoned land in Lismore LGA which is identified in the Lismore Growth Management Strategy 2015-2035.
2. The land is relatively unconstrained and has been identified as generally suitable for rural residential development through the strategic planning process.
3. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Craig Diss

Date:

9/3/17