

Ms Shelley Oldham
General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Dear Ms Oldham

**Planning proposal PP_2018_LISMO_002_00 to amend Lismore Local
Environmental Plan 2012**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to bring the non-urban land deferred from the Lismore Local Environmental Plan (LEP) 2012 into the LEP, apply environmental or rural zones, apply other appropriate planning controls and amend Schedule 5 Environmental Heritage.

I thank Council for progressing with this matter to remove the deferred land from the rural areas of the Shire. Council's adopted position on the application of E zones is noted.

The zoning of rural land for agricultural or environmental purposes has been an issue of debate on the Far North Coast. To establish a fair and consistent process for zoning the deferred areas the Minister for Planning released the Northern Councils E Zone Review Final Recommendations Report and section 9.1 direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs. In assessing planning proposals, the Department is required to ensure that any proposed rezoning is consistent with this adopted position.

The planning proposal, in parts, is inconsistent with the Northern Councils E Zone Review Final Recommendations Report and section 9.1 Direction. I have included conditions on the Gateway Determination to ensure the planning proposal is consistent with the Government's adopted outcomes. This approach ensures that rural and environmental zones are applied consistently across the Far North Coast. The Department has been consistent on this approach in adjoining council areas.

I have agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 2.3 Heritage Conservation and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Directions 2.1 Environment Protection Zones, 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast

LEP's and 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

Consistent with the Secretary's undertaking of 1 March 2016, the role of finalising the proposal will remain with the Department of Planning and Environment. This is to ensure consistency of zoning decisions with the final recommendations report. I have therefore determined not to condition the Gateway for Council to be the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within 18 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Ms Jenny Johnson to assist you. Ms Johnson can be contacted on 6641 6614.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

10/01/2019
Encl: Gateway determination

Gateway Determination

Planning proposal (Department Ref: PP_2018_LISMO_002_00): to bring the non-urban land deferred from the Lismore Local Environmental Plan 2012 into the LEP, apply appropriate environmental or rural zones, apply other appropriate planning controls and amend Schedule 5 Environmental Heritage.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Lismore Local Environmental Plan (LEP) 2012 to bring the non-urban land deferred from the Lismore LEP 2012 into the LEP, apply environmental or rural zones, apply other appropriate planning controls and amend Schedule 5 Environmental Heritage should proceed subject to the following conditions:

1. Prior to agency consultation or public exhibition, the planning proposal is to be amended as follows:
 - a) the vegetation attributes of the land zoned 7(a) and 7(b) are to be assessed against the vegetation criteria in section 5 of the Northern Councils E Zone Review Final Recommendations Report. If this land is found to contain these environmental attributes, the land is to be zoned E2 or E3 accordingly;
 - b) the vegetation attributes of 81 Fox Road, Rosebank are to be assessed against the vegetation criteria in section 5 of the Northern Councils E Zone Review Final Recommendations Report. If this land is found to contain these environmental attributes, the land is to be zoned E2 or E3 accordingly;
 - c) any other lots that are proposed to contain a rural zone are to have the primary use of land verified as per the Northern Councils E Zone Review Final Recommendations Report:
 - if the primary use is determined to be agriculture, then a rural zone may be applied;
 - if the primary use is determined to be environmental conservation or environmental management, then the attributes of the land are to be assessed against the vegetation criteria in section 5 of the Northern Councils E Zone Review Final Recommendations Report and a zone applied accordingly; and
 - d) prepare lot size, acid sulfate soils, drinking water catchment, flood planning, heritage, rural landsharing community development and land application maps and include them in the planning proposal.

A copy of the revised planning proposal is to be submitted to the Department for approval to public exhibition.

2. Prior to public exhibition, Council is to ensure that any landowner whose land is proposed to have an E zone applied to it is notified in writing of the planning proposal and the public exhibition arrangements.
3. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (b) written notice to each landowner subject to the planning proposal advising them of the community consultation arrangements; and
 - (c) the planning proposal 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 local environmental plans* (Department of Planning and Environment 2016).
4. Prior to public exhibition, consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
 - NSW Rural Fire Service;
 - Office of Environment and Heritage;
 - Ngulingah Local Aboriginal Land Council;
 - Jali Local Aboriginal Land Council; and
 - Bunjum Aboriginal Co-operative Ltd.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.
5. When Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, landowners whose land will be subject to an E zone are to be notified in writing of Council's decision and advised that they have 28 days to notify the Department if they would like the Chief Planner to review the proposed zoning of their property.
6. A public hearing is not required to be held into the matter by any person or body under section 3.34(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).



Planning & Environment

7. The time frame for completing the LEP is to be **18 months** following the date of the Gateway determination.

Dated *10th* day of *May* 2019.

Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning