

Planning and Assessment

IRF19/6743

Gateway determination report

LGA	Lismore
PPA	Lismore City Council
NAME	Housekeeping amendment
NUMBER	PP_2019_LISMO_006_00
LEP TO BE AMENDED	Lismore LEP 2012
ADDRESS	Housekeeping amendments
DESCRIPTION	Housekeeping amendments
RECEIVED	16 October 2019
FILE NO.	IRF19/6743
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to make various minor housekeeping amendments to the Lismore Local Environment Plan 2012. The amendments involve corrections of minor anomalies, minor zone changes, adjustments of the land use table, refinement or additions of non-mandatory provisions and amendments to schedules.

Specifically, this planning proposal includes minor amendments to:

- land use tables
- clause 4.2B Erection of dual occupancies and dwelling houses on land in certain rural and environmental protection zones
- clause 6.8 Rural landsharing community development;
- schedule 2 Exempt development,
- schedule 5 Environmental heritage
- additional Permitted use map
- drinking water catchment map
- floor space ratio map
- heritage map
- height of building map
- land reservation acquisition map
- lot size map
- land zoning map.

1.2 Site description

The planning proposal covers 16 separate amendment items (Items A – P) within the Lismore LEP 2012 and applies to numerous properties within the Lismore LGA. The sites that are subject to specific changes are Items G - P and are listed in Table 1 (Section 2.3 Mapping of this report).

1.3 Existing planning controls

The Lismore LEP has been in force for 7 years and this planning proposal is the fifth housekeeping amendment.

This proposal seeks to review certain provisions, correct mapping errors and include additional provisions and clauses to serve the needs and desires of the community.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed subject to conditions as it:

- corrects minor anomalies, minor zone changes, adjustments of the land use table, refinement or additions of non-mandatory provisions and amendments to schedules as required to ensure the ongoing effective and efficient operation of Lismore LEP 2012; and
- is consistent with the Northern Councils E Zone Review Final Recommendations and implements the government's policy for the zoning of environmental land on the Far North Coast of NSW.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives and intended outcomes of the planning proposal includes:

- **Item A:** enable “artisan food and drink industry” with consent in the B1, B2, B3 and B4 zones;
- **Item B:** enable “tourist and visitor accommodation” with consent in Zone R2;
- **Item C:** clarify that dwellings are not permitted on undersized residue lots created under clause 4.2E of the LEP in Zones RU1, RU2 and E3;
- **Item D:** clarify that dual occupancies are not permitted on community title or strata title lots in Zone RU1;
- **Item E:** clarify that rural landsharing community development under clause 6.8 of the LEP is not permitted on land on which a dwelling is not permissible under clause 4.2B of the LEP;
- **Item F:** enable certain roadside stalls as exempt development in Zone RU1;
- **Item G:** update the heritage map and associated Schedule 5 in response to a recent subdivision and inaccuracies in the map at Eltham;
- **Item H:** update the zoning, lot size and height of buildings maps at 25 & 27 Earls Court, Goonellabah, to align with the cadastre;
- **Item I:** update the land reservation acquisition map to remove 27 & 27A Earls Court, Goonellabah, which has now been acquired;
- **Item J:** update for consistency the lot size symbols and categories across the lot size map series;

- **Item K:** update additional permitted uses map sheet APU_006B to remove irrelevant clutter in the legend;
- **Item L:** update the land reservation acquisition map to remove the land at 5A George Drive, Chilcotts Grass, which has been acquired;
- **Item M:** rezone part of 550 Nimbin Road, Blakebrook (part of the Council owned Blakebrook Quarry) from RU1 to E2 and amend the lot size map to implement the Blakebrook Quarry Biodiversity Offset Strategy;
- **Item N:** rezone 133 and 133A Molesworth Street, Lismore (former Lismore art gallery and adjoining restaurant - The Stockpot Kitchen) and adjoining road reserve from RE1 to B3 and update the land zone, floor space ratio and height of building maps to better facilitate the adaptive re-use of the buildings that are no longer needed for community uses consistent with the adjoining land zoning;
- **Item O:** amend the drinking water catchment map to include the Marom Creek Weir drinking water catchment; and
- **Item P:** correct a minor LEP mapping anomaly which incorrectly zoned six village allotments in Dunoon as part RU1 and amend associated lot size and building height maps.

2.2 Explanation of provisions

The planning proposal has grouped the amendments into 6 categories:

1. Land use tables (Items A – B)
2. Part 4 Principal development (Items C – D)
3. Part 6 Additional local provisions (Item E)
4. Schedule 2 Exempt development (Item F)
5. Schedule 5 and Mapping (Item G)
6. Mapping (Items H – P)

A detailed explanation of provisions is included within the planning proposal (**Attachment A**).

2.3 Mapping

A number of maps are proposed to be amended as part of this planning proposal as detailed in Table 1.

Table 1: Properties affected by LEP map changes

LEP map type	Affected property parcel and changes	Item
Heritage Map		
HER_ 005B	- Lot 190 DP 915276 and part Lot 4720 DP 1226324, Johnston Road, Eltham to correct inaccuracies in regard to the railway cottage, bridge and conservation area	G
Land Zoning Map		
LZN_005	- part 14, 16, 18, 20, 22 & 24 May Street, Dunoon (part Lots 19, 20, 21 & 22 DP 1230136 and part Lots 6 & 7 DP 1213529) to apply Zone RU5 to the entire allotments	P

LZN_005AA	- 133 & 133A Molesworth Street, Lismore (Lot 14 DP 1250790 and adjoining road reserve) to apply a B3 Zone	N
LZN_005AB	- Part 25 Earls Court (part Lot 212 DP 1238653) to apply a R1 Zone to the entire allotment - Part 27 Earls Court (part Lot 211 DP 1238653 to apply a RE1 Zone to the entire allotment	H
	- Part 550 Nimbin Road, Blakebrook (part Lot 53 DP 1254990) to apply a E2 Zone to 45ha of the lot to implement the quarry biodiversity offset strategy	M
Lot Size Map		
LSZ_001 LSZ_002 LSZ_003 LSZ_004 LSZ_005 (Amended as part of Item P LSZ_005AA (Amended as part of item N) LSZ_005AB (Amended as part of Item H & M) LSZ_006 LSZ_006AA LSZ_006AB LSZ_007	- Amend legend and lot size symbols to ensure consistency across the map series – effects entire LGA area	J
LSZ_005	- part 14, 16, 18, 20, 22 & 24 May Street, Dunoon (part Lots 19, 20, 21 & 22 DP 1230136 and part Lots 6 & 7 DP 1213529) to apply a minimum lot size of 2500m ² (V2) to the land proposed for Zone RU5	P
LSZ_005AB	- 25 Earls Court (Lot 212 DP 1238653) to apply a minimum lot size of 400m ² (F) to the entire site - 27 Earls Court (Lot 211 DP 1238653) so that no minimum lot size applies to land zoned RE1	H
	- Part 550 Nimbin Road, Blakebrook (part Lot 53 DP 1254990) to apply a minimum lot size of 40ha to the E2 Zone	M
Height of Buildings Map		
HOB_00	- part 14, 16, 18, 20, 22 & 24 May Street, Dunoon (part Lots 19, 20, 21 & 22 DP 1230136 and part Lots 6 & 7 DP 1213529) to apply a maximum building height of 8.5m (I) to the land proposed as Zone RU5.	P
HOB_005AA	- 133 & 133A Molesworth Street, Lismore (Lot 14 DP 1250790) to apply a maximum building height of 14.5m (N2) to the allotment	N
HOB_005AB	- 25 Earls Court (Lot 212 DP 1238653) to apply a maximum building height of 8.5m (I) to land zoned R1 - 27 Earls Court (Lot 211 DP 1238653 so that no maximum building height applies to land zoned RE1	H

Land Reservation Acquisition Map		
LRA_005AB	Delete the following properties from LRA map: - 27 Earls Court (Lot 211 DP 1238653) - 27A Earls Court (Lot 218 DP 1238653)	I
LRA_006AB	Delete - 5A George Drive, Chilcotts Grass (Lot 1 DP 1185561)	L
Additional Permitted Uses Map		
APU_006B	Administration amendment – No properties effected	K
Floor Space Ratio Map		
FSR_005AA	- 133 & 133A Molesworth Street, Lismore (Lot 14 DP 1250790) to apply a floor space ratio of 2.25:1 (T) to the allotment.	N
Drinking Water Catchment Map		
DWC_005 DWC_006	- Include Marom Creek Weir drinking water catchment.	O

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is not a result of any strategic studies or reports. The planning proposal is for housekeeping amendments which have arisen as a result of a periodic review of the Lismore LEP 2012 to correct minor mapping anomalies, minor site specific alterations of land use zones, adjust the land use table, refine non-mandatory provisions and amend schedules.

The following provides a summary of the proposed amendments, the justification and assessment:

Category 1 - Land use tables

Item A - “Artisan food and drink industry” in business zones B1, B2, B3 & B4.

The proposal seeks to permit ‘artisan food and drink industry’ with consent in Zones B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Centre and B4 Mixed Use. Artisan food and drink industry is a type of light industry and is currently prohibited in the B1, B2, B3 and B4 zones

The overall intent of the B1, B2, B3 and B4 zones is to provide a range of retail, business, community and entertainment facilities of varying scales and intensities. The proposed amendment is considered appropriate, as artisan food and drink industries are an appropriate business use for these zones and it is considered that any potential impacts, compatibility with existing surrounding use and scale/intensity of the use can be assessed and addressed satisfactorily at the development application stage.

Item B - “Tourist and visitor accommodation” in Zone R2 Low Density Residential

The proposal seeks to permit tourist and visitor accommodation in the R2 Low Density Residential zone with consent.

Currently only bed and breakfast accommodation is permitted in the zone. The planning proposal indicates that interest in other tourist and visitor accommodation activities being located in the R2 zone has been expressed to Council.

The land zoned as R2 Low Density Residential within the Lismore LGA is limited to Lismore, East Lismore, South Lismore and North Lismore. The land within the R2 zone is generally within walking distance to existing services including, the hospital,

restaurants, cafes, pubs, clubs, public transport links, retail premises and sporting facilities (Figure 1).

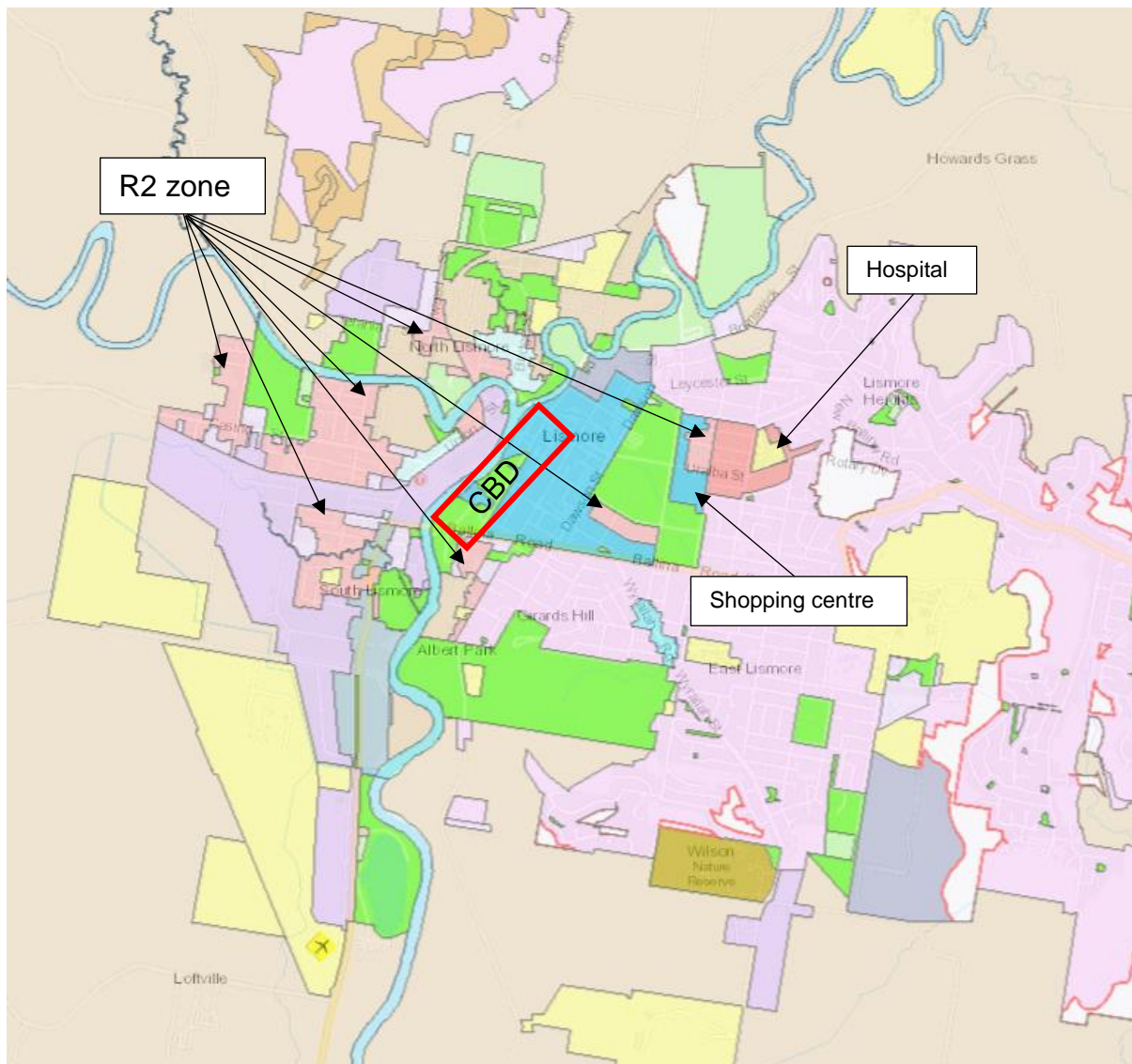


Figure 1: Location of R2 zoned land and proximity to services

In considering whether the amendment is appropriate an assessment of the objectives of the zone has been carried out. The current zone objectives are:

To provide for the housing needs of the community within a low density residential environment.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered questionable that tourist and visitor accommodation would be consistent with these existing objectives and the current intent of the R2 Low Density Residential zone in the Lismore LEP 2012.

To address this matter, it is recommended that the Gateway determination require an additional objective be inserted into the R2 land use table to ensure that any new tourist and visitor accommodation development is compatible with the character and considers the amenity of the residential area. This matter was discussed with Council staff who raised no objection.

It is also noted that the R2 zone in these areas has been identified by Council as “High Risk” or “Medium Risk” flood category. Consultation with NSW Environmental, Energy and Science is recommended to confirm the appropriateness of intensifying development by permitting visitor and tourist accommodation in these flood prone areas.

Category 2 - Part 4 Principal development

Item C – *Potential inconsistency between Clause 4.2B(3) and 4.2E(4) regarding dwellings on undersized residue lots in certain rural or environmental protection zones*

The proposed amendment to clause 4.2B is considered appropriate to remove any doubt regarding dwelling eligibility for lots created under clause 4.2E to ensure the intent that these lots can't be built upon is maintained. The drafting of the final cause will be provided by Parliamentary Counsel.

Item D *Potential inconsistency between clause 6.8A and clause 4.2B regarding dual occupancies on community title lots created under clause 6.8A*

The proposed amendment to clause 4.2B is considered appropriate to include an additional subclause to clarify that dual occupancies are not permitted on strata plan schemes or community title schemes in rural areas. The drafting of the final cause will be provided by Parliamentary Counsel.

Category 3 - Part 6 – Additional local provisions

Item E – *Potential inconsistency between clause 4.2B and Clause 6.8 Rural Landsharing Community Development which may permit rural landsharing development on land on which a dwelling is not permitted.*

The proposed amendment to clause 6.8 is considered appropriate to include an additional subclause that also requires compliance with clause 4.2B of the LEP. It is noted that the planning proposal currently incorrectly refers to lots ‘created’ under clause 4.2B(3). This should be amended to ‘complies’ with clause 4.2.B prior to consultation. The drafting of the final cause will be provided by Parliamentary Counsel.

Category 4 - Schedule 2 – Exempt development

Item F - *“Roadside stalls” in Zone RU1 Primary Production*

The proposal seeks to insert the following additional provision in Schedule 2 Exempt Development for road side stalls in the RU1 zone:

- (1) *This clause applies to the use of land for a roadside stall for the sale of only agricultural produce.*
- (2) *The roadside stall:*
 - (a) *must be located on land within Zone RU1 Primary Production, and*
 - (b) *must be located wholly on private property, and*
 - (c) *must not be located on land that is adjacent to a classified road, and*
 - (d) *must not have a footprint greater than 4m².*
- (3) *No more than 1 roadside stall may be used on any landholding.*
- (4) *Any relevant approval issued under the Roads Act 1993 must be obtained.*

Road side stalls are currently permitted within consent in Zones RU1, RU2, RU5, R5, B1, B2, B3, B4 and E3 in the Lismore LEP 2012. The amendment to identify certain roadside stalls as exempt development is considered appropriate and is similar to an existing provision in the Ballina LEP 2012. Due to potential traffic issues associated with roadside stalls it is recommended that consultation with Transport for NSW (RMS) also be undertaken to confirm the suitability of the provisions.

Category 5 - Schedule 5 and Mapping

Item G - Inaccuracies in the Heritage Map and Schedule 5 at Eltham involving the railway cottage, railway bridge & Eltham

The current map inaccurately shows the location of the heritage item and conservation area. The proposed amendment to the map will better reflect the true location of the railway cottage and railway bridge heritage items and the conservation area (Figures 2 and 3). Schedule 5 will also be amended to reflect an updated lot and DP of the location.

Figure 2 – Existing Heritage map



Figure 3 - Proposed Heritage map



Category 6 - Mapping

All mapping changes required as part of amendment Items H - P are supported and subject to final map drafting. The LEP maps that are that are being amended and the impacted properties are listed in Table 1.

Item H - Minor inconsistency in Zoning, Lot Size and Height of Buildings Maps at 25 & 27 Earls Court, Goonellabah

The proposed amendment to the map is required to align the zoning and other development standards with the cadastre (Figures 4 - 9).

Prior to consultation it is recommended that Appendix 1 of the planning proposal be amended to also include the proposed lot size map.

Figure 4 - Existing Zone map

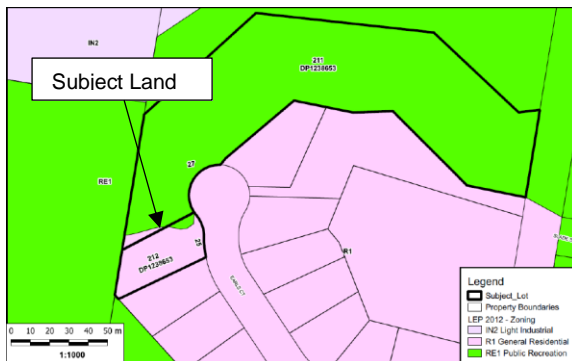


Figure 5 - Proposed Zone map

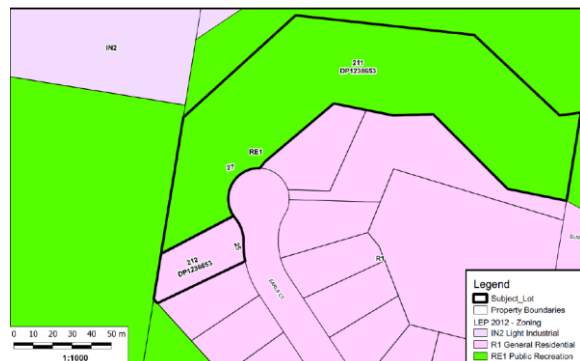


Figure 6 - Existing Lot size map

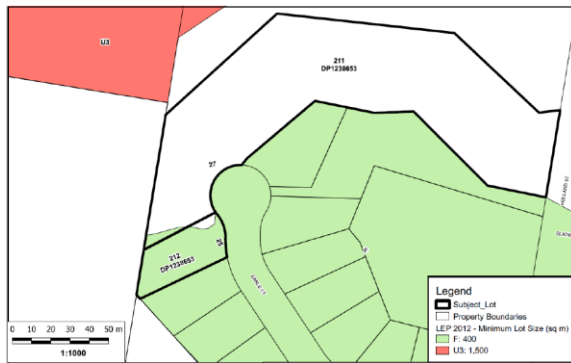


Figure 7 - Proposed Lot size map

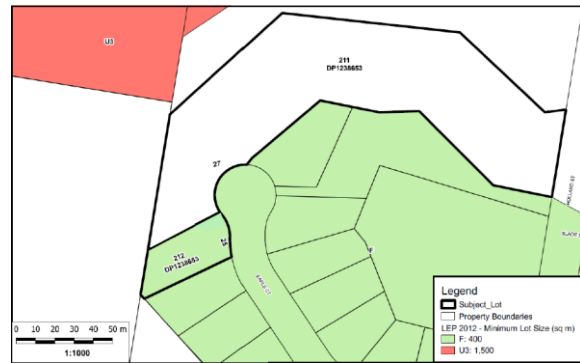


Figure 8 - Existing Height of building map

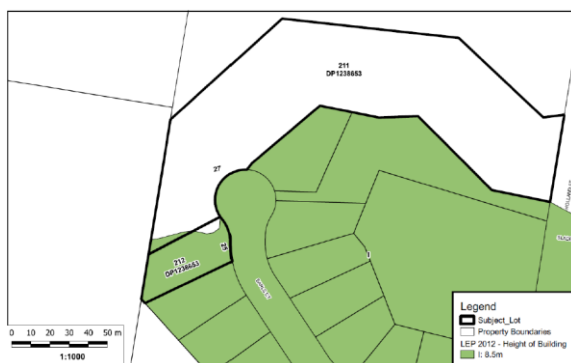


Figure 9 - Proposed Height of building map



Item I - Land at 27 & 27A Earls Court, Goonellabah has been acquired by Council which necessitates the amendment of the Land Reservation Acquisition Map

The proposed amendment to remove lot 27 and 27A Earls Court from the Land Reservation Acquisition Map is a consequence of Council having recently purchased the land (Figures 10 - 11).

Figure 10 - Existing Land Reservation Acquisition map

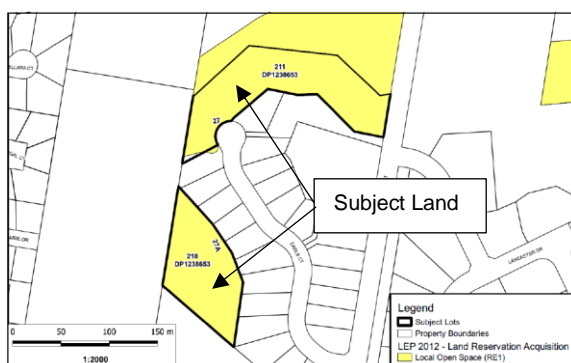
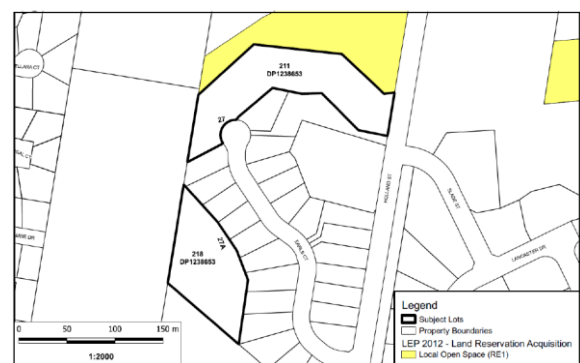


Figure 11 - Proposed Land Reservation Acquisition map



Item J - Inconsistency with lot size symbols and categories across the full series of Lot Size Map sheets and **Item K** - Irrelevant clutter in the legend of the Additional Permitted Uses Map sheet APU_006B

Items J and K are administrative amendments required to be carried out to ensure consistency throughout the LEP Map series.

It is noted that any changes made to the legend will also need to be reflected on the map sheet.

Item L - Land at 5A George Drive, Chilcotts Grass, has been acquired by Council which necessitates the amendment of the Land Reservation Acquisition Map.

The proposed amendment to remove Lot 1 DP 1185561, 5A George Drive, Chilcotts Grass, from the Land Reservation Acquisition Map is required as the sewer pump station has now been acquired by Council (Figures 12 and 13).

Figure 12 - Existing Land Reservation Acquisition map

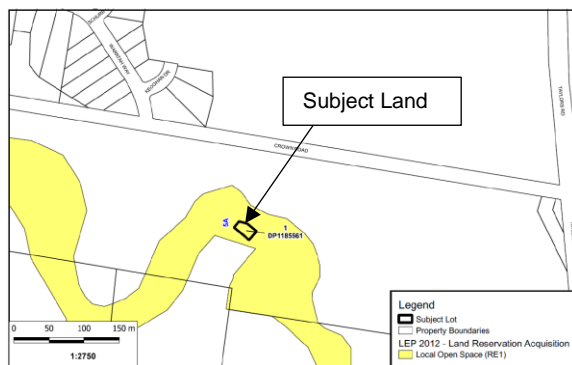
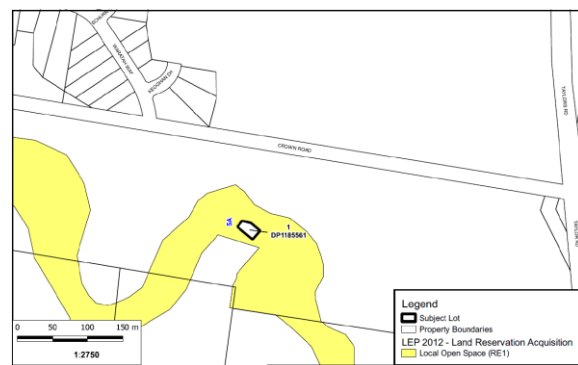


Figure 13 - Proposed Land Reservation Acquisition map



Item M - The rezoning of part of 550 Nimbin Road, Blakebrook (part of the Council owned Blakebrook Quarry).

The proposal seeks to rezone part of Lot 53 DP 1254990, 550 Nimbin Road, Blakebrook (Figure 14) from RU1 Primary Production to E2 Environmental Conservation (Figures 15 and 16). The total area of the lot to be rezoned is 45ha, with the majority of the land covered by vegetation. The Blakebrook Quarry is owned by Lismore City Council. A requirement of the conditions of approval for the quarry was to develop and implement a Biodiversity Offset Strategy. The 45ha of land was acquired by Council to offset any ecological impacts associated with clearing vegetation for quarrying operations. The proposal to rezone the land to E2 is supported and is consistent with the E Zone final recommendations as landowner agreement has been obtained and the land is being use for environmental conservation purposes.

The lot size map will be amended to reflect a minimum lot size of 40ha to the E2 zoned land (Figures 17 and 18) consistent with similar land in the LGA.

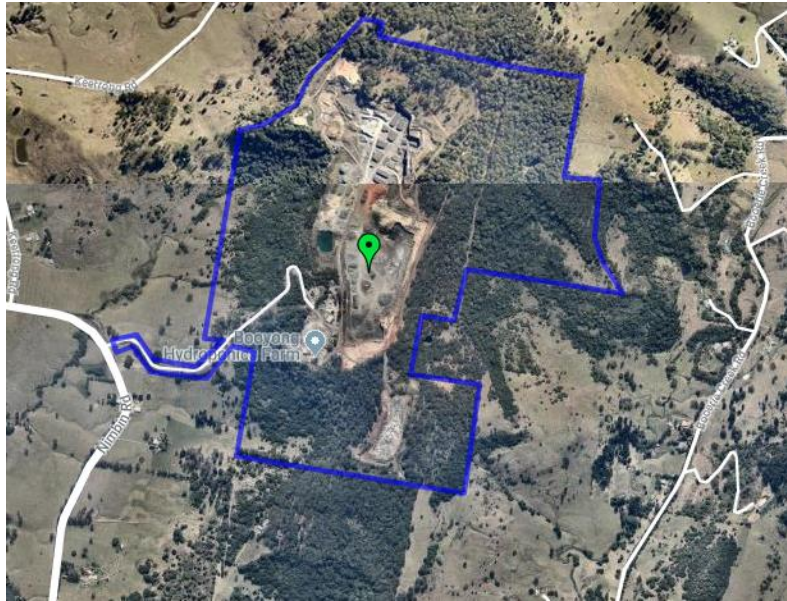


Figure 14 - 550 Nimbin Road, Blakebrook (Council owned Blakebrook Quarry) (Source: Nearmap)

Figure 15 - Existing Zone map

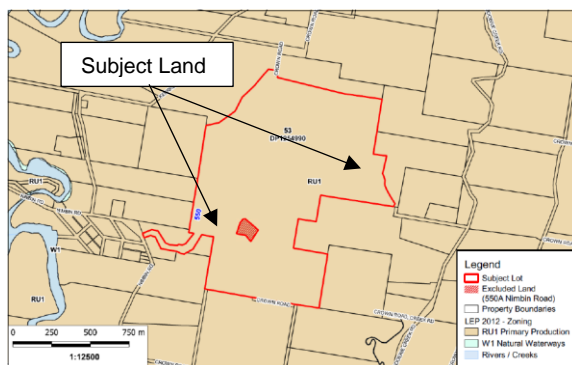


Figure 17 - Existing Lot size map

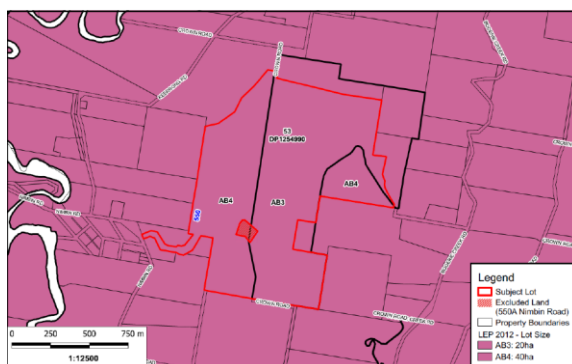


Figure 16 - Proposed Zone map

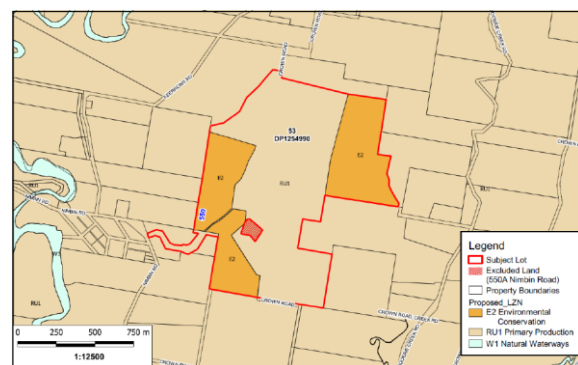


Figure 18 - Proposed Lot size map



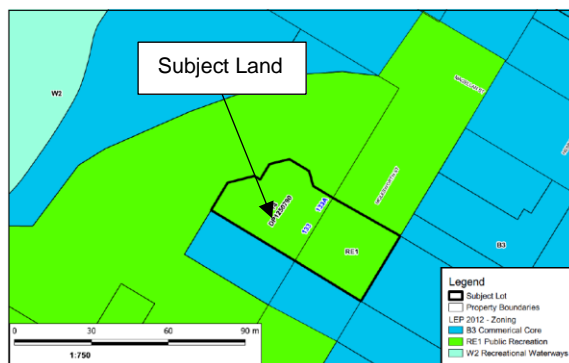
Item N - The rezoning of 133 and 133A Molesworth Street, Lismore (former art gallery building and adjoining restaurant – The Stockpot Kitchen) and adjoining road reserve

The proposal seeks to rezone the former Lismore Art Gallery and adjoining restaurant site (Figure 17) from RE1 Public Recreation to B3 Commercial Core (Figures 18 - 23). The rezoning of the site will provide greater opportunity for business, community groups and restaurants to occupy the tenancies and would

The proposed rezoning is supported along with the updated floor space ratio map and height of building map. It is recommended that the proposal should be amended prior to consultation to clarify that the adjoining road reserve is also proposed to be rezoned from RE1 Public Recreation to B3 Commercial Core.



Figure 18 - Existing land zone map



The map displays a subject lot (RE1) in green, surrounded by other lots (B3, RE1, RE2, RE3, RE4, RE5, RE6, RE7, RE8, RE9, RE10, RE11, RE12, RE13, RE14, RE15, RE16, RE17, RE18, RE19, RE20, RE21, RE22, RE23, RE24, RE25, RE26, RE27, RE28, RE29, RE30, RE31, RE32, RE33, RE34, RE35, RE36, RE37, RE38, RE39, RE40, RE41, RE42, RE43, RE44, RE45, RE46, RE47, RE48, RE49, RE50, RE51, RE52, RE53, RE54, RE55, RE56, RE57, RE58, RE59, RE60, RE61, RE62, RE63, RE64, RE65, RE66, RE67, RE68, RE69, RE70, RE71, RE72, RE73, RE74, RE75, RE76, RE77, RE78, RE79, RE80, RE81, RE82, RE83, RE84, RE85, RE86, RE87, RE88, RE89, RE90, RE91, RE92, RE93, RE94, RE95, RE96, RE97, RE98, RE99, RE100). The lot is situated near a recreational waterway (W2) and a commercial core (B3). The map includes a scale bar (0 to 90 m) and a north arrow.

Legend

- Subject Lot
- Property Boundaries
- LEP 2012 - Zoning
- B3 Commercial Core
- RE1 Public Recreation
- W2 Recreational Waterways

Figure 20 – Existing Floor space ratio map



Figure 21 - Proposed Floor space ratio map

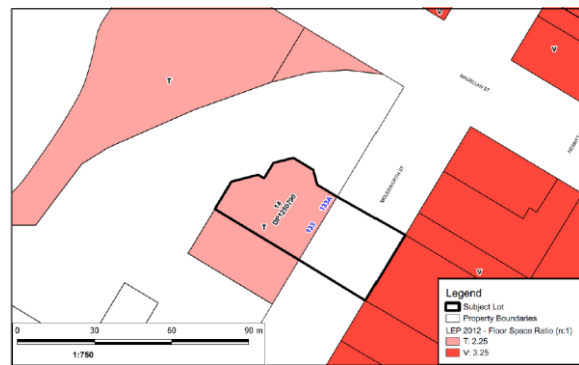


Figure 22 – Existing height of building map



Figure 23 – Proposed existing height of map



Item O - Marom Creek Weir drinking water catchment area.

The proposal seeks to amend the drinking catchment map to identify the Marom Creek Weir drinking water catchment (Figures 24 and 25). Lismore City Council has received a request from Ballina Shire Council as the manager of the Marom Creek Weir to identify the drinking water catchment. The weir and 60% of the water catchment is located in Ballina LGA and the remaining 40% is located within the Lismore LGA. The area of the proposed drinking water catchment is zoned RU1 Primary Production and Deferred Matter.

The inclusion of the Marom Creek Weir Drinking water catchment into the LEP map will ensure greater protection for water quality at Marom Creek Weir and is supported.

Figure 24 - Existing drinking water catchment map

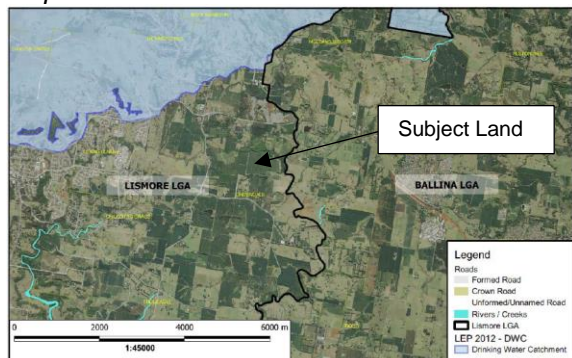
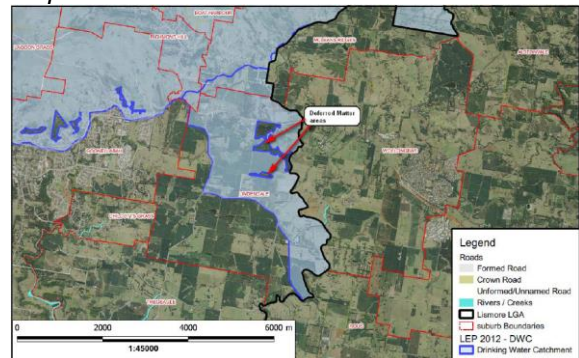


Figure 25: Proposed drinking water catchment map



Item P - Minor anomaly in the Land Zoning Map involving six village allotments in Dunoon.

The proposed amendment to the map is required to correct an error in the Lismore LEP 2012 that misaligned the zoning and cadastre boundaries (Figures 26 – 27). Associated changes to realign the lot size and height standards is also required (Figure 28 – 31).

Figure 26: Existing zone map

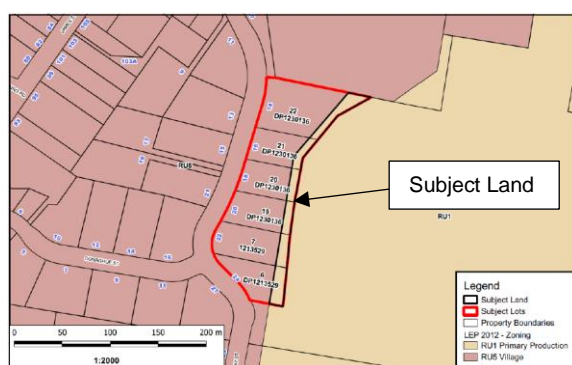


Figure 27: Proposed zone map

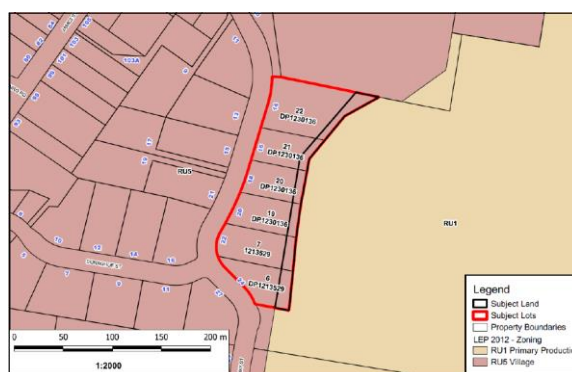


Figure 28: Existing lot size map

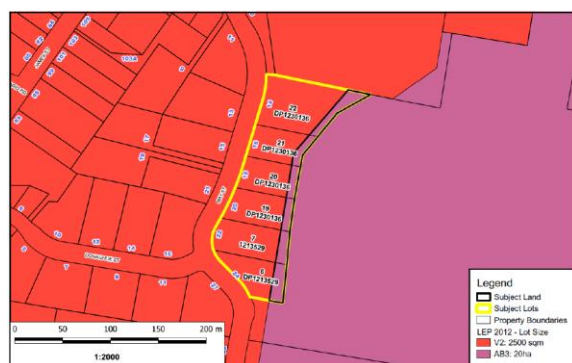


Figure 29: Proposed lot size map

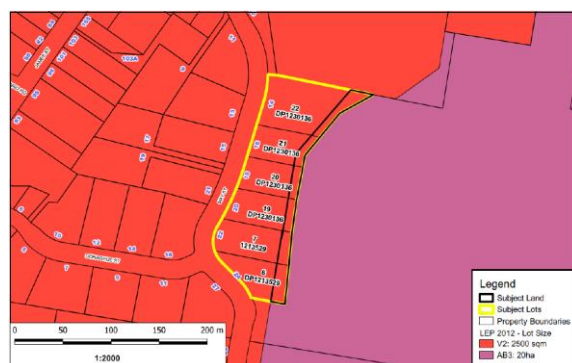


Figure 30: Existing height of building map



Figure 31: Proposed height of building map



4. STRATEGIC ASSESSMENT

4.1 State

The minor changes are consistent with the state strategic planning framework.

Northern Councils E Zone Review Final Recommendations Report

The final recommendations report sets out clear criteria and methodologies for Far North Coast councils to follow when seeking to apply E zones. This is further supported by a section 9.1 Direction requiring councils to be consistent with the adopted recommendations. A directive from the Department's former Secretary (1 March 2016) also provides further guidance on how to apply the final recommendations. The final E zone recommendations also clarify that the application of E zones under the criteria is not mandatory and only applies to land proposed for an E zone.

The proposal is considered to be consistent with the Northern Councils E Zone Review Final Recommendations Report criteria and methodology (**Attachment D**). Council has applied E zones in the proposal only to public land that it believes has a primary use of environmental conservation or management (Item M – Blakebrook Quarry).

The proposal also seeks to amend the drinking water catchment map in the Lismore LEP 2012 to include additional land. This is consistent with the E Zone final recommendations, which permit the application of a mapped planning control for matters of public health and safety such as drinking water catchments.

It is normally required that land owners receive formal notification of the proposed E zone during consultation. In this instance, this requirement is not necessary as Council is the only affected landowner and owner's consent is implied through the lodgement of the planning proposal. As land owner consent has been granted to the application of the E zone, the proposal is also considered to be consistent with section 9.1 Direction 2.5 *Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs*.

4.2 Regional / District

The planning proposal is generally consistent with the North Coast Regional Plan 2036, in particular:

- *Direction 2: Action 2.2 Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts*

Item O (Marom Creek Weir Water Catchment) is consistent and aligns with Action 2.2 of the Regional plan and will help ensure future development applications avoid and minimise any potential impacts on the catchment.

- *Direction 6: Action 6.4 Focus retail and commercial activities in existing centres and develop place-making focused planning strategies*

Item B (Tourist and Visitor Accommodation in the R2 zone) and Item N (Rezoning of the former Lismore Art Gallery) are consistent and align with Action 6.4 of the Regional Plan in assisting to centralise commercial activities in and around the CBD and increase the activation of established retail and commercial activities.

- *Direction 8: Action 8.2 Facilitate tourism and visitor accommodation and supporting land uses in coastal and rural hinterland locations through local growth management strategies and local environmental plans.*

Item B (Tourist and Visitor Accommodation in the R2 zone) is consistent and aligns with Action 8.2 of the Regional Plan in expanding opportunities to support that will promote the growth of tourism.

- *Direction 19: Action 19.3 Deliver the adaptive or sympathetic use of heritage items and assets.*

Item G (Eltham heritage items) and Item N (Rezoning of the former Lismore Art Gallery) are consistent with Action 19.3 by helping to ensure the ongoing protection and adaptive reuse of the respective heritage places.

It is noted that the proposal is however inconsistent with the Regional Plan as it permits additional development potential on land identified as being flood and bushfire prone. Consultation with the NSW Rural Fire Service and Environment, Energy and Science is recommended to confirm the suitability of the proposed additional development potential.

4.3 Local

The planning proposal is consistent with Imagine Lismore Community Strategic Plan 2017-2027. The strategic plan includes an action to monitor the LEP and amend it as required. The proposal involves corrections of minor anomalies, minor zone changes, adjustments of the land use table, refinement or additions of non-mandatory provisions and amendments to schedules that have been identified.

The proposal is also considered to be consistent with Council's Lismore Growth Management Strategy 2015-2035 approved by the Department in August 2015.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with all Section 9.1 Directions except for the following:

Direction 1.2 Rural Zones

The planning proposal is inconsistent with this Direction as it proposes to rezone land from rural to residential at Dunoon (Item P). Six parcels of village land were accidentally zoned part rural by a mapping error during the preparation of Lismore LEP 2012. The inconsistency is considered to be of minor significance as the rezoning only involves relocating the village zoning 10m to the east to rectify the mapping error and to more accurately reflect the existing and future village use of the land.

Direction 1.5 Rural Lands

The planning proposal is inconsistent with this Direction as it rezones rural land and changes planning provisions that apply to rural land and is unable to satisfy all the requirements of the Direction such as supporting farmers in exercising their right to farm.

The inconsistency is considered to be of minor significance as the changes are generally correcting minor anomalies and it is considered unlikely to remove any land from primary production or increase the likelihood of rural land use conflict.

Direction 3.1 Residential Zones

The proposal is inconsistent with this Direction as it seeks to rezone land at Earls Court, Goonellabah, from R1 General Residential to RE1 Public Recreation (Item H). The inconsistency is considered to be of minor significance as the rezoning only seeks to rectify an existing misalignment between the cadastre and land zoning which incorrectly zones a small area of public open space as R1 General Residential.

Direction 4.1 Acid Sulfate Soils

The planning proposal is inconsistent with this Direction as a number of proposed changes are located on acid sulfate soil and are not supported by an acid sulfate soils study. This inconsistency is of minor significance as the Lismore LEP 2012 contains suitable provisions that can appropriately address acid sulfate soils at the development stage.

Direction 4.3 Flood Prone Land

The planning proposal is inconsistent with this Direction as it rezones flood prone land from recreation to business at Lismore (Item N) and contains other provisions which permit additional development on flood prone land and does not demonstrate consistency with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guide on Development Controls on Low Flood risk Areas). It is recommended that the inconsistency remain unresolved until after consultation with the Department of Planning, Industry and Environment (Environment, Energy and Science).

Direction 4.4 Planning for Bushfire Protection

A number of the proposed changes affect bushfire-prone land. This Direction provides that consultation with the NSW Rural Fire Service is to be undertaken in preparing the planning proposal. Until this consultation has occurred, the consistency of the proposal with this Direction remains unresolved.

Direction 5.10 Implementation of Regional Plans

The proposal is inconsistent with this Direction as it permits additional development potential on land identified as being flood and bushfire prone. Until consultation with the NSW Rural Fire Service and Environment, Energy and Science has been undertaken to confirm the suitability of the proposed additional development potential, consistency of the proposal with this Direction remains unresolved.

Direction 6.2 Reserving Land for Public Purposes

The planning proposal is inconsistent with this Direction as it rezones land from RE1 Public Recreation to R1 General Residential (Item H) and RE1 Public Recreation to B3 Commercial Core (Item N) without the Secretary's approval. This inconsistency is considered to be of minor significance as:

- Item H is private land that was incorrectly zoned RE1 and there will be no loss of public open space; and
- Item N is no longer being used to house the Lismore Art Gallery and is to be reused consistent with the adjoining B3 zone.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all relevant SEPPs.

The following provides additional justification to demonstrate that the planning proposal is not inconsistent with relevant SEPPs.

SEPP 44 – Koala Habitat Protection

The proposal includes amendments which are located on koala habitat however it is not considered that the changes will have any adverse impact on koala habitat.

SEPP 55 – Remediation of land

The local planning authority has identified that the proposal is consistent with SEPP 55. In this regard, Council has concluded:

- Item H (25 & 27 Earls Court) rezones land from R1 to RE1 and RE1 to R1 in order to rectify a mapping error. Council has noted that a contamination investigation was carried out as part of the subdivision application and the proposal is considered to be consistent with the requirements of the SEPP.
- Item P (Dunoon village) rezones land from RU1 to RU5 to rectify a mapping error. Council has noted that a contamination investigation was carried out as part of the subdivision application and the proposal is considered to be consistent with the requirements of the SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal involves minor changes to the land use tables, mapping changes and amendments to Schedule 5 of the LEP to rectify anomalies and inaccuracies in the LEP. The planning proposal will ensure land uses and LEP maps align more accurately with the existing and intended provisions of the Lismore LEP and the planning proposal is not expected to have any negative social impacts.

5.2 Environmental

It is considered that the minor changes to be made under the planning proposal are unlikely to adversely impact threatened species, populations or ecological communities and their habitat.

The rezoning of part of the land at 550 Nimbin Road, Blakebrook (part of the Council owned Blakebrook Quarry) from RU1 to E2 (Item M) aims to enhance and protect existing biodiversity values onsite and secure an ecological offset area.

It is noted that the proposed changes do apply to a number of sites that are flood and / or bushfire prone. The suitability of these changes will be considered by State Government agencies during consultation.

5.3 Economic

The amendments proposed in the planning proposal are not expected to have any negative economic impacts. It is also considered likely that the rezoning of 133 and 133A Molesworth Street, Lismore, from RE1 zone to B3 zone and the adaptive reuse of the former art gallery will result in a positive economic impact on the Lismore CBD and will help to increase tourism and economic activity in the area.

5.4 Infrastructure

No adverse impacts or additional State and local infrastructure is considered likely as a result of the proposal.

6. CONSULTATION

6.1 Community

The proposal confirms it will be exhibited in accordance with the Gateway determination and in accordance with the *Environmental Planning and Assessment Act 1979*. Council proposes to consult with the community in accordance with the Gateway determination. Council considers that a 28 day public exhibition period is appropriate in this instance. This exhibition period is considered appropriate.

6.2 Agencies

It is recommended that the following agencies be consulted:

- NSW Rural Fire Service
- Department of Planning Industry and Environment
 - Department of Primary Industry
 - Environment, Energy and Science
- Transport for NSW (Roads and Maritime Services)
- Ballina Shire Council
- the Local Aboriginal Land Council

7. TIME FRAME

The planning proposal includes a project timeline which estimates completion by September 2020.

To ensure the local plan making authority has adequate time to complete the necessary exhibition, reporting, map changes and legal drafting it is recommended that a timeframe of 12 months be provided.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be authorised as the local plan-making authority. Consistent with the Secretary's directive of 1 March 2016, an authorisation to act as the local plan-making authority is not to be issued to Northern councils where a planning proposal seeks to apply an E zone to land. This is to ensure a consistent approach to the finalisation of zoning decisions consistent with the E zone review final recommendations report. As the proposal includes a minor rezoning of a site to an E zone (Item M) it is recommended that Council not be authorised to act as the local plan-making authority.

9. CONCLUSION

Preparation of the planning proposal is supported as it is the most efficient and appropriate method of rectifying minor changes that will promote the efficient functioning of the Lismore LEP 2012.

It is recommended that the planning proposal proceed subject to conditions as it:

- corrections of minor anomalies, minor zone changes, adjustments of the land use table, refinement or additions of non-mandatory provisions and amendments to schedules as required to ensure the ongoing efficient and effective operation of the Lismore LEP 2012; and
- is consistent with the Northern Councils E Zone Review Final Recommendations and implements the government's policy for the zoning of environmental land on the Far North Coast of NSW.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 3.1 Residential Zones, 4.1 Acid Sulfate Soils and 6.2 Reserving Land for Public Purposes are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans are unresolved and will require justification or approval.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to agency consultation and public exhibition, the planning proposal is to be amended as follows:
 - (a) include an additional objective for the R2 Low Density Residential zone to ensure that the future tourist and visitor accommodation is of a scale and intensity that is appropriate and compatible with the character of the area;
 - (b) appendix 1 of the planning proposal report is to be amended to include the proposed lot size map for Item H;
 - (c) reference in Item E to lots 'created' under clause 4.2B(3) is to be altered to 'complies' with clause 4.2B(3); and
 - (d) references to Item N are to be updated to clarify that the proposal also seeks to rezone the adjoining road reserve from RE1 Public Recreation to B3 Commercial Core.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) The planning proposal should be made available for community consultation for a minimum of 28 days
 - (b) The planning proposal authority must comply with the notice requirements for public exhibition for public exhibition of planning proposal and the specifications for material that must be publicly available along with planning proposal as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning Environment 2016).
3. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Department of Planning Industry and Environment
 - Department of Primary Industry
 - Environment, Energy and Science
 - Transport for NSW (Roads and Maritime Services)
 - Ballina Shire Council
 - the Local Aboriginal Land Council

4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



11/11/19

Craig Diss
Team Leader, Northern Regions



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Jeremy Gray
Director, Northern Regions
Planning and Assessment

Assessment officer: Rebecca Carpenter
Planning Officer, Northern Region
Phone: 6643 6421