

Lismore LEP 2012 - Reduce minimum lot size at 270 Dunoon Road, North Lismore to facilitate one additional lot and dwelling

Proposal Title : Lismore LEP 2012 - Reduce minimum lot size at 270 Dunoon Road, North Lismore to facilitate one additional lot and dwelling

Proposal Summary : To reduce the minimum lot size of 270 Dunoon Road, North Lismore to facilitate the subdivision of the site into one additional lot for the purposes of a dwelling.

PP Number : PP_2017_LISMO_004_00 Dop File No : 17/05821

Proposal Details

Date Planning Proposal Received : 26-Apr-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 : 270 Dunoon Road

Suburb : City : Lismore Postcode : 2480

Land Parcel : Lot 5 DP 249836

DoP Planning Officer Contact Details

Contact Name : Jenna McNabb

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RPA Contact Details

Contact Name : Sally Salter

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DoP Project Manager Contact Details

Contact Name : Gina Davis

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Contact Email : gina.davis@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) :	3.50	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	1
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department's Code of Conduct in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other agencies 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 facilitate the subdivision of the land into one additional lot for the purposes of a dwelling.**

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 Lot Size Map to apply a minimum lot size of 1.5 hectare to the land.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

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

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- 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

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 (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 : **Maps have been included in the planning proposal which adequately show the intended outcome of this amendment.**

Maps prepared in accordance with the Department's technical mapping standards will also be needed before a Parliamentary Counsel's opinion can be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A period of 14 days community consultation has been nominated by Council, including public advertising and adjoining landowner notification.**

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 : **It is considered the planning proposal meets the adequacy criteria by:**
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of provisions proposed to achieve the LEP outcomes;
3. Providing a 9 month project timeline which is considered suitable;
4. Providing adequate justification; and
5. Outlining a proposed community consultation program.

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Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals with matters that are of local significance it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Lismore LEP 2012 is in force and was notified on 22 February 2013. This planning proposal seeks an amendment to the Lismore LEP 2012.

Assessment Criteria

Need for planning proposal : The proposal results from an application from the land owner, and is supported by Council's Growth Management Strategy 2015-2035. This Strategy identified that this site may support further subdivision subject to detailed studies. The owners of the subject land have initiated a planning proposal for the reduction of the minimum lot size of the site in accordance with this strategy.

The subject land is approximately 3.5 hectares in size and has direct access to Dunoon Road. The land is currently zoned R5 Large Lot Residential with a minimum lot size of 2 hectares. The southern part of the site comprises steep slopes leading to dense vegetation. On the northern and eastern boundaries, the site adjoins residential and horticultural uses with a similar zoning, while the southern boundary abuts agricultural lands used for cattle grazing. The land is serviced with electricity and can accommodate on-site wastewater disposal. Connection to reticulated water is also available.

Approximately 2.4 hectares of the site is defined as 'Regionally Significant Farmland' under the provisions of the Northern Rivers Farmland Protection Project. This is discussed further in the 'environmental impacts' section of this report.

The subject site is identified as bushfire prone land. A referral to the NSW Rural Fire Service is required, with the planning proposal amended accordingly, post-Gateway determination and prior to public exhibition to determine consistency with Section 117 Direction 4.4 Planning for Bushfire Protection.

The site is not identified within the Flood Planning Area of the Lismore LEP.

The northern section of the site is mapped as containing koala habitat. This is discussed further in the 'environmental impacts' section of this report.

The planning proposal seeks to apply a 1.5 hectare minimum lot size to the land. The application of a 1.5 hectare MLS will allow the subdivision of the site to facilitate the creation of one additional lot and dwelling.

It is noted that this proposal will introduce a 1.5ha MLS into the Lismore LEP. This is a local matter and Council have confirmed that this is there preferred way forward.

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Consistency with strategic planning framework :

*** North Coast Regional Plan**

The proposal is consistent with the North Coast Regional Plan (NCRP) as it is consistent with the adopted Lismore Growth Management Strategy.

Approximately 2.4 hectares of the land is mapped as regionally significant farmland by the Northern Rivers Farmland Protection Project (NRFPP).

The site is also already zoned R5 Large Lot Residential, and is thus considered to have limited agricultural productivity due to potential for land use conflict.

The NCRGP contains farmland interim variation criteria. The proposal is consistent with the criteria for the following reasons:

1. The site is currently zoned R5 Large Lot Residential. The residential zoning and lot size of 3 hectares limits agricultural potential.
2. The risk of land use conflict occurring is relatively low. The land has also been identified for subdivision in Council's LGMS;
3. Appropriate infrastructure is available to service an additional dwelling;
4. The subject land does not contain vegetation of high environmental value and is not expected to have Aboriginal or historic heritage significance;
5. The land is not flood prone, is not highly erodible and does not contain acid sulfate soils. The land is partly bushfire prone however it is considered that this constraint can be mitigated.

This planning proposal does not address the final North Coast Regional Plan. It should be updated prior to exhibition to reflect the NCRP as the current regional planning document.

*** Lismore Growth Management Strategy 2015-2035**

The proposal implements the recommendations of the Lismore Growth Management Strategy 2015-2035, which was conditionally endorsed by the Department in August 2015. The Strategy identifies the site as potentially suitable for further development.

This strategy supports a reduction in the minimum lot size for this land subject to detailed analysis of the sites constraints. Council is now satisfied that the proposed minimum lot sizes can be achieved based on detailed information provided in support of this proposal.

*** SEPPs**

State Environmental Planning Policies (SEPPs) that are applicable to the land include:

SEPP 44 Koala Habitat Protection

The northern portion of the site is identified as containing Koala habitat (Secondary A). A site inspection by Council's Ecologist indicated that potential koala habitat covers a smaller area, comprising tallwood plantings and a single mature Forest Red Gum in the far south west corner. The fragmented nature of the plantings suggest koala usage is transitory and limited. The site does not contain core koala habitat. Development of the site and any impacts of future development on koala habitat in the vicinity of the site will be addressed at development application stage.

SEPP 55 Remediation of Land

The proposal states that a preliminary contaminated land assessment has been undertaken and concludes that the land is not contaminated and is suitable for residential habitation. If the site for the future dwelling changes from that shown on the preliminary lot layout supplied with the application, further soil testing in the vicinity of any future dwelling may be required at the development assessment stage.

The proposal is otherwise consistent with State Environmental Planning Policies.

*** SECTION 117 DIRECTIONS**

A number of S117 Directions apply to this Planning Proposal. The proposal is considered to

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be consistent with all relevant s117 Directions except in relation to the following:

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Part of the subject land is 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.

Direction 5.1 is currently under Ministerial consideration. Consistency and applicability of this direction should be considered when/if this LEP is finalised.

Whilst the proposal is consistent with the North Coast Regional Plan, and Direction 5.10 Implementation of Regional Plans, due to its consistency with Councils Local Growth Management Strategy; for clarity the planning proposal should be updated to remove references to the Far North Coast Regional Strategy, and address the NCRP and the interim Important Farmland Variation Criteria prior to public exhibition.

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.

Council's Ecologist has undertaken a desktop review and site visit of the subject land. The majority of the site has been cleared of native vegetation and has been grazed and slashed for agricultural uses. The northern area of the site is mapped as 'Plantation' on Council's GIS database and groundtruthing has confirmed it comprises fruit and nut trees including mango, loquat, banana, pecan and macadamia.

The southern area of the site is mapped as Subtropical Rainforest, but it more accurately described as Dry Rainforest, due to the vegetation contained on the site.

Council's GIS mapping shows the northern part of the site containing koala habitat (Secodnary A), however an inspection of the site revealed a much smaller area of koala habitat, comprising the wind-break plantings of Tallowwood and a single mature Forest Red Gum in the far south western corner. Koala scats were not evident at the base of these trees and the fragmented nature of the vegetation suggests that koala usage would be transitory and limited.

Council has recommended a Flora and Fauna assesement be completed on the site to assess the impact of the proposal on the site. This is recommended to be undertaken as part of the development assessment process. This is considered to be a satisfactory approach.

*** Regionally Significant Farmland**

Approximatley 2.4ha of the site is mapped as 'Regionally Significant Farmland' under the Northern Rivers Farmland Protection Project. It is considered that the site has limited agricultural production due to the existing residential zoning, being R5 Large Lot Residential. The proposal is not considered to be inconsistent with s117 direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast as it does not involve rezoning of this land.

*** Geotechnical**

The northern port of the site, abutting Dunoon Road has a gentle slope, while the southern half of the site is steep, where mass soil movement has been identified.

It is considered that a geotechnical report will be required at the development application stage to assess the extent of soil movement and the impact that additional construction will have on the site. This is considered satisfactory.

*** Aboriginal and European Cultural Heritage**

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A search of the AHIMS site determines that the site is not mapped as containing any aboriginal or European heritage significance. However due to its proximity to known sites of significance an Aboriginal Cultural Heritage Assessment should be undertaken post-Gateway. A condition will be included as such.

*** Bushfire**

A majority of the land is mapped as being Vegetation Category 2 and Vegetation Buffer. A Bushfire Hazard Assessment was submitted to Council as part of the proposal and indicates that future development will be able to meet the requirements of Planning for Bushfire Protection 2006. The planning proposal will require referral to the NSW Rural Fire Service due to the land being bushfire prone.

*** Social and Economic**

The planning proposal has given consideration to social and economic impacts of the proposed amendment. The proposal will facilitate the development of 1 additional lot which is likely to have a positive economic impact and increase housing choice in the area.

Due to the minor nature and scale of the planning proposal, it is considered not to have any direct adverse effect on the natural, built or socio-economic environment.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority : **Office of Environment and Heritage**
Consultation - 56(2)(d) : **NSW Rural Fire Service**

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
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Planning Team Recommendation

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

S.117 directions: **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

Additional Information : **It is recommended that the Acting Director Regions, Northern, as delegate of the Minister approve the planning proposal to reduce the minimum lot size at 270 Dunoon Road, North Lismore to facilitate the subdivision of the site into one additional lot for the purposes of a dwelling subject to the following conditions:**

1. Prior to the commencement of community consultation the planning proposal is to be updated to reflect the adoption of the North Coast Regional Plan 2036, including addressing the Important Farmland Interim Variation Criteria.

2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

(a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning and Environment, 2016) and 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).

3. Consultation is required with the following public authorities under section 56(2)(d) of the Act to comply with the requirements of relevant S117 Directions:

- a. NSW Rural Fire Service**
- b. The Office of Environment and Heritage**

Each public authority 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.

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.

and that the A/ Director Regions, Northern as delegate of the Secretary issues a written authorisation to exercise delegation to Lismore City Council.

Supporting Reasons : **The planning proposal is consistent with Councils and the Department's strategic planning. The land has been identified as being potentially suitable for further development and this amendment to the LEP will facilitate that.**

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facilitate one additional lot and dwelling**

Signature:

T Rentice

Printed Name:

Tamara Rentice

Date:

3 May 2017

