

Lismore LEP 2012 - Reclassification of Council owned land at Clunes and Goonellabah

Proposal Title : **Lismore LEP 2012 - Reclassification of Council owned land at Clunes and Goonellabah**

Proposal Summary : **The proposal seeks to reclassify three parcels of Council owned land from 'Community' to 'Operational' pursuant to section 27 of the Local Government Act 1993 at Clunes and Goonellabah. The proposal will amend Lismore Local Environmental Plan (LEP) 2012 Schedule 4 Classification and Reclassification of Public Land. The reclassification of land at Clunes also involves changing the interests that currently apply to the site.**

The proposal requires amendments to the written instrument only. No map amendments are proposed.

PP Number : **PP_2017_LISMO_001_00**

Dop File No : **17/03133**

Proposal Details

Date Planning : **24-Feb-2017**

LGA covered : **Lismore**

Proposal Received :

Region : **Northern**

RPA : **Lismore City Council**

State Electorate : **LISMORE**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **36A Smith Street**

Suburb : **Clunes**

City :

Postcode : **2480**

Land Parcel : **Lot 2 DP 830616**

Street : **2 & 4 Cassia Crescent**

Suburb : **Goonellabah**

City :

Postcode : **2480**

Land Parcel : **Lot 1 & 2 DP 630988**

DoP Planning Officer Contact Details

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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
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 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 meetings or communications with registered lobbyists? :

No

If Yes, comment : **The Northern Region has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Section 27 of the Local Government Act provides that the classification or reclassification of public land occurs by means of a local environmental plan. Section 29 of the Local Government Act provides that a public hearing is required as part of this process.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to reclassify land at two locations within the Lismore LGA from Community to Operational. The changes to the reclassification will reflect the current and future land uses and /or enable the sale or lease of Council owned land. It also proposes to extinguish interests applying to Lot 2 DP 830616, 36A Smith Street, Clunes, as it currently has Public Reserve Status.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal provides an explanation of the intended provisions to achieve the objectives and intended changes to Lismore LEP 2012. The reclassification will require amendment to Lismore LEP 2012 - Schedule 4 Classification and reclassification of public land.

It seeks to reclassify Lot 2 DP 830616 (known as 36A Smith Street, Clunes) from Community to Operational (interests changed) to allow for the transfer of ownership of the child care centre from Council to Clunes Community Pre-School. The other reclassification of Lot 1 & 2 DP 630988 (known as 2 & 4 Cassia Crescent, Goonellabah) from Community to Operational (no interests changed) is to allow the potential to lease or transfer ownership of the land to the Jarjum Pre-School for a proposed child care centre.

No mapping or other written amendments are required.

The site at Smith Street, at Clunes has Public Reserve Status which will be required to be discharged to allow for the reclassification. Approval of the Governor under section 30(2) of the Local Government Act 1993 will be required for the discharging of interests. This will require the reporting of the proposed reclassification to the Executive Council.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

* May need the Director General's agreement

3.1 Residential Zones

5.1 Implementation of Regional Strategies

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

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

e) List any other matters that need to be considered :

Lot 2 DP 830616 known as 36A Smith Street Clunes was previously reclassified under Lismore LEP 2012 Amd 8 as 'Operational - no interest changed' within Schedule 4 of Lismore LEP 2012 to facilitate its sale to the community preschool. Council subsequently identified that interests applied to the land that will need to be distinguished before the sale could proceed

Lot 2 has since been reclassified back to 'Community' through a Council resolution to allow for this reclassification.

Under this LEP amendment the reclassification of this lot is to be changed to Operational land - interests changed.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **It is noted that the land is confirmed to be a Public Reserve and therefore s117 Directions 6.2 Reserving Land for Public Purposes will be applicable. This matter is discussed further in the Assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The planning proposal will not amend any Lismore LEP 2012 maps. The amendment involves changes to the written instrument only. Mapping identifying the land for the purposes of public exhibition is included within the proposal and is considered to be satisfactory.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has indicated that under the requirements of Section 34 of the Local Government Act 1993 a community consultation period of 28 days will undertaken. In addition, a public hearing is proposed to occur following completion of the community consultation period.**

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 : **The planning proposal satisfies the adequacy criteria by:**

- 1) Providing appropriate objectives and intended outcomes;**
- 2) Providing a suitable explanation of the provisions for the LEP to achieve the outcomes;**
- 3) Providing an adequate justification for the proposal; and**
- 4) Outlining a proposed community consultation program.**

Timeline

- The planning proposal includes a project timeline which suggests a completion time within 6 months. To allow adequate time for completion including obtaining the Governor's approval, it is recommended that a 9 month period be allowed.

Delegation

- Given the Governor will be involved in the reclassification of land, and interests are being discharged, plan making functions are not requested or proposed by Council. This is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Lismore LEP 2012 is a Principal LEP and came into effect on 22 February 2013. The planning proposal seeks to amend this planning instrument.**

Assessment Criteria

Need for planning
proposal :

Reclassifying the three subject lots from Community to Operational will reflect the existing and future uses of the sites that no longer suit a 'Community' classification.

The three sites to be reclassified as Operational are:

- 1) Lot 2 DP 830616 - 36A Smith Street, Clunes (Child Care Centre)**
- 2) Lot 1 DP 630988 - 2 Cassia Crescent, Goonellabah (Vacant land - recently demolished Scout Hall)**
- 3) Lot 2 DP 630988 - 4 Cassia Crescent, Goonellabah (Access and parking for Clifford Park)**

The Clunes Community Pre-School has occupied the Smith Street site since 1991 and Council resolved in June 2013 to reclassify the land to allow transfer of ownership (nil economic advantage) of the land to the pre-school. It was incorrectly reclassified as Operational - no interests changed as part of Lismore LEP Amendment No 8 in December 2014. However, the property has Public Reserve Status and needs to be reclassified as Operational - interests changed to allow finalisation of the sale of land to Clunes Community Pre-School. Council resolved to reclassify the land back to Community at the same Council meeting that resolved to seek a Gateway determination for this planning proposal. The proposal now seeks to reclassify Lot 2 to Operational Interests changed and seek the Governors approval to remove the Public Reserve Status on the land.

The title search for Lot 2 DP 830616 also identified further interests - a restriction associated with the lease of the land to the pre-school and a drainage easement. The transfer of ownership to the Pre-school makes the restriction associated with the lease unnecessary and therefore no longer applies. The classification of the lot to Operational - interests changed is to do so without discharging the drainage easement identified on the site.

Lot 1 & 2 DP 630988 Cassia Crescent is currently vacant land and public access to Clifford Park. Jarjam Pre-School has approached Council with a proposal to relocate their premises to Lot 1 and 2 to better cater to the community of indigenous and non-indigenous children in this location. Lot 1 which was the site of the recently demolished Scout Hall is most suited for the preschool site. Lot 2 is proposed with improvements to the driveway and car park to cater for children's play equipment would double as access to the pre-school, as well as maintaining access to Clifford Park. Clifford Park will not be impacted upon however is classed as an important park in need of upgrading, identified in Council's Community Strategic Plan Imagine Lismore - Parks

The reclassification of these sites to Operational is supported.

Consistency with strategic planning framework :

The Far North Coast Regional Strategy (FNCRS) does not contain any provisions regarding classification. The proposal is not inconsistent with the provisions and outcomes in the FNCRS.

The draft North Coast Regional Plan does not contain any provisions regarding classification. The proposal is not inconsistent with the provisions and outcomes in the draft North Coast Regional Plan.

The planning proposal is consistent with Council's Community Strategic Plan (Imagine Lismore) - Parks Service 10 year objectives which include implementing the Lismore Sports and Recreation Plan. The three sites are currently not embellished or being used for public recreation purposes (excluding access to Clifford Park on Lot 2 at Goonellabah).

The proposed reclassification will not result in any inconsistency with the relevant SEPP's.

The planning proposal is inconsistent with s117 Direction 3.1 Residential Zones and 6.2 Reserving Land for Public Purposes.

3.1 Residential Zones

This direction applies as the proposal affects land within a zone in which significant residential development is permitted. Lot 2 DP 830616 is zone RU5 Village which permits a wide range of residential accommodation. The site contains a Pre-school (LEP definition - Child Car Centre) which is permissible with consent in the zone and has been issued with development consent for this use. However a child car centre does not encourage the provision of housing in which a zone that permits residential development should do. The proposal is for a reclassification and does not attempt to rezone or reduce the permissible density of the land. The land is utilised as a pre-school and will continue this use after the reclassification. The land is also not ideally suited for residential development. This inconsistency is considered to be of minor significance.

6.2 Reserving Land for Public Purposes.

This direction applies as the proposal as it affects land reserved for public purposes. The proposal is inconsistent with this direction as it seeks to remove the existing Public Reserve status from the land at Clunes. However the site is not utilised for a public reserve, nor has it been identified under Council's Sport and Recreation Plan as a site to be upgraded for future open space (passive or recreation) use. Development consent has been granted for the purpose of a child care centre on the site. The inconsistency is considered to be of minor significance.

Environmental social economic impacts :

The planning proposal is not likely to adversely impact on threatened species, populations or ecological communities or their habitat.

None of the three sites are proposed to be rezoned or have any additional planning controls applied.

The sale of Lot 2 to the Clunes Community Pre-School will have no economic effect as Council resolved that there would be nil consideration.

Lot 1 at Goonellabah is proposed to be utilised for a child care centre (Pre-School) however this transfer has not yet occurred so no determination has been made on any sale or lease of the land or any economic gain proposed from any potential sale.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

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

Public Authority Consultation - 56(2)(d) :

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
Gateway request letter (PDF) - fourth round of reclassifications.pdf	Proposal Covering Letter	Yes
2017-02-15 Planning Proposal - Fourth round of reclassifications.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones**
3.1 Residential Zones
5.1 Implementation of Regional Strategies
6.2 Reserving Land for Public Purposes

Additional Information : **It is recommended that the Acting Director Regions, Northern as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Lismore LEP 2012 to reclassify Council owned land should proceed subject to the following conditions:**

1. The planning proposal is required to be updated prior to community consultation to:
- include references to Governor approval and reporting the reclassification to the

Executive Council for any interests changed, prior to finalisation of the plan;
- update the Project Timeline for the proposal (as the project timeline incorrectly lists the year 2016).

2. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 28 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specification for material that must be made publicly available along with the planning proposal as identified in section 5.5.2 a 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013);
(c) Council is to conduct a public hearing (21 days after completion of the public exhibition period) in accordance with the requirements of section 29 of the Local Government Act 1993 as the planning proposal involves reclassification of land.

3. No consultation is required with public authorities under section 56(2)(d) of the Act.

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 obligations under the Local Government Act 1993 stated above.

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

6. The secretary's delegate agree to the planning proposal's inconsistencies with s117 Direction 3.1 Residential Zones and 6.3.

7. Plan making function should not be delegated to Council, given the Governor's approval is required to discharge interest.

Supporting Reasons :

The proposal by Council to reclassify land within Lismore LGA from Community to Operational to reflect the existing and future uses of the three sites that no longer suit a community classification, is appropriate to proceed.

Signature:



Printed Name:

Craig Duss

Date:

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