

Lismore LEP 2012 – 366 Dunoon Road, Tullera, Minimum Lot Size Amendment

Proposal Title : Lismore LEP 2012 – 366 Dunoon Road, Tullera, Minimum Lot Size Amendment

Proposal Summary : The planning proposal seeks to amend Lismore LEP 2012 by reducing the minimum lot size applicable to Lot A DP 100387 at 366 Dunoon Road, Tullera to 5000m2 in order to create an additional allotment for a dwelling.

PP Number : PP_2016_LISMO_008_00 Dop File No : 16/14634

Proposal Details

Date Planning Proposal Received : 11-Nov-2016 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 : 366 Dunoon Road

Suburb : Tullera City : Lismore Postcode : 2480

Land Parcel : Lot A DP100387

DoP Planning Officer Contact Details

Contact Name : Kate Hanson

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RPA Contact Details

Contact Name : Sally Slater

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DoP Project Manager Contact Details

Contact Name : Tamara Prentice

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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

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MDP Number :		Date of Release :	
Area of Release (Ha) : 1.20		Type of Release (eg Residential / Employment land) :	Residential
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 Code of Practice 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 Departmental officers and lobbyists concerning this 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 enable a reduction in the minimum lot size applicable to Lot A DP 100387 at 366 Dunoon Road, Tullera to create an additional allotment for 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 appropriate planning controls 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

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

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 (Rural Lands) 2008

SEPP (Affordable Rental Housing) 2009

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 :

The planning proposal contains maps which adequately show the subject land, the current zone and the current and proposed minimum lot size. These maps are adequate for exhibition purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 14 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 inconsistencies with the strategic planning framework are of minor significance. 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 :

The planning proposal satisfies the adequacy criteria by;

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

The RPA has requested an Authorisation to exercise delegation for this proposal. The proposal is considered to be of local planning significance since it applies to a single lot

of land identified for subdivision by the strategic planning framework, particularly Council's Growth Management Strategy which has been approved by the Department. It is recommended that an Authorisation for the execution of delegation be issued to the RPA in this instance.

The planning proposal includes a project timeline which estimates the completion of the planning proposal in nine (9) months concluding in July 2017. This is considered an adequate timeframe.

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 Local Growth Management Strategy 2015-2035 (LGMS).**

The subject site is identified and discussed in the LGMS as one of a number of sites in the R5 zone that have potential for further subdivision that may be achieved through a combined development application for subdivision and a planning proposal to amend the minimum lot size, or by way of a standalone planning proposal.

The subject site is approximately 1.2 hectares in size and currently accommodates a dwelling and shed, both located in the north western corner.

The other land uses in the general vicinity of the site includes rural and residential. The site is located on the northern end of the Tullera settlement, with frontage and direct access onto Dunoon Road. An unformed Crown Road bounds the southern part of the site that comprises steep slopes leading to dense vegetation. On its northern and eastern boundaries, the site adjoins residential development with a similar zoning, while the southern boundary abuts agricultural lands.

The site is located approximately 6km's from the Lismore CBD which offers high level services and facilities commensurate to its status as a Regional Centre.

The planning proposal seeks to amend the minimum lot size applicable to Lot A DP 100387 at 366 Dunoon Road from 2 hectares to 5,000m².

The proposal to reduce the minimum lot size of Lot A DP 100387 is the best means of achieving the intent of the proposal which is to enable the creation of an additional allotment for a dwelling.

Consistency with strategic planning framework :

Far North Coast Regional Strategy

The proposal is consistent with the actions and outcomes in the Far North Coast Regional Strategy (FNCRS). The FNCRS provides that new rural residential development in non-coastal areas will only be approved in accordance with an approved local growth management strategy. Lot A DP 100387 is non-coastal and identified for subdivision in the LGMS.

Draft North Coast Regional Growth Plan

The proposal is consistent with the Draft North Coast Regional Growth Plan (Draft NCRGP). A small area of the land (0.7ha) in the north west of the lot is mapped as regionally significant farmland by the Northern Rivers Farmland Protection Project (NRFPP).

A large proportion of the regionally significant farmland has previously been developed and contains the existing dwelling and shed which precludes its current and future value and use for productive agriculture.

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

1. The majority of the mapped regionally significant farmland has been developed with a dwelling and shed and is thus considered to have limited agricultural potential.
2. The risk of land use conflict occurring is relatively low. Only the southern boundary of the site abuts land in a rural zone and is buffered from this land by an unformed Crown road and steep slope. 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 avoided or easily mitigated.

SEPPs

The proposal lists the following State Environmental Planning Policies (SEPPs) that are applicable to the land:

SEPP 44 Koala Habitat Protection

The site is not mapped as containing primary or secondary Koala habitat. However, a site inspection by Council's Ecologist indicated that Koala food trees are present within the area. It is not anticipated that these trees will be removed as part of the future subdivision and 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 does not require remediation 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.

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 planning proposal will result in the potential for one additional dwelling on land adjoining rural land which may generate land use conflict. However, the risk of conflict occurring is relatively low given that only the southern boundary of the site abuts land in a rural zone and is buffered from this land by an unformed Crown road and steep slope.

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 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.

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.

The majority of the land has been cleared, however the site contains several mature primary Koala food trees (Forest Red Gum) and regenerating dry rainforest vegetation (including Hoop Pine) in the steep eastern side.

The proposal indicates that Council's Ecologist has inspected the site and concluded that no further technical reporting is required as the site has been extensively disturbed in the past and comprises mostly native vegetation regrowth. There is sufficient land area available that any future dwelling will not have a detrimental impact on the existing Koala food trees and dry rainforest on the site.

Geotechnical

The western part of the site is gently sloping while the eastern section becomes steeper toward the eastern boundary. The proposal indicates that Council's Development Engineer has determined that any future development application can avoid the need for a Geotechnical report with considered placement of the building envelope.

The site is not mapped as being a site of potential mass movement, is not flood prone and does not contain acid sulfate soils.

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 : **Minor** Community Consultation Period : **14 Days**

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

Public Authority 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
Letter to DPE requesting Gateway Determination.pdf	Proposal Covering Letter	Yes
Planning Proposal 366 Dunoon Road Tullera.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**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 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:**

1. That the proposal be supported.

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

- **NSW Rural Fire Service**

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

- (a) the planning proposal 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).

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.

6. The Secretary's delegate note the outstanding inconsistency of the proposal with s117 Direction 4.4 Planning for Bushfire Protection.

7. That a written authorisation to exercise plan making delegations be issued Lismore Council.

Supporting Reasons :

The reasons for the recommendation are as follows:

1. The proposal will contribute to the identified demand for housing in the 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 subdivision 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:

T. Rennie.

Printed Name:

Tom Rennie

Date:

24/11/16.