

# Report

<b>Subject</b>	<b>Planning Proposal to rezone part of 55 Palmers Road, McLeans Ridges to Zone R5 Large Lot Residential</b>
<b>TRIM Record No</b>	BP19/603:EF19/337
<b>Prepared by</b>	Strategic Planner
<b>Reason</b>	To obtain a Council resolution to support a Planning Proposal to amend the Lismore Local Environmental Plan 2012 to rezone part of 55 Palmers Road, McLeans Ridges and seek a Gateway determination from the Department of Planning and Environment
<b>Strategic Theme</b>	Our built environment
<b>Strategy</b>	Our land-use planning caters for all sectors of the community.
<b>Action</b>	Ensure land is available and serviced to meet population growth in locations that are accessible, close to services and employment, and suitable for development.

## Executive Summary

On 17 January 2019 Council received a combined Planning Proposal / Development Application for 55 Palmers Road, McLeans Ridges (Lot 28, DP1130169). The Planning Proposal seeks to:

- rezone a 3ha part of the land that comprises a dwelling, pool and shed from Zone RU1 Primary Production to Zone R5 Large Lot Residential;
- rezone two small areas of land in R5 Large Lot Residential to RU1 Primary Production
- amend the minimum lot size of part of the land to 3ha that comprises the existing dwelling and the balance parcel to 30ha to facilitate a future subdivision to create 1 additional lot ;
- amend the minimum lot size of small two areas of R5 land from 2ha to 30ha;
- apply a maximum building height of 8.5m to part of the land; and
- remove a maximum building height of 8.5m on two small areas consistent with land in Zone RU1

The Planning Proposal will facilitate a subdivision to create one (1) additional allotment and the Development Application to subdivide the land from one (1) lot into two (2) lots will be determined after the LEP Amendment is finalised.

This Planning Proposal originated from a Council resolution made on 11 September 2018 that rejected a previous Planning Proposal relating to the same parcel of land. The resolution supported the applicant lodging a new combined Planning Proposal/ Development Application for subdivision that minimises potential impacts on adjoining land. It is considered that this Planning Proposal achieves this aim which is discussed in the Environmental and Physical constraints section of this report.

It is recommended that Council support the Planning Proposal that is included at Attachment 1 and forward it to the Department of Planning and Environment requesting a Gateway Determination.

## Recommendation

That Council:

1. support the Planning Proposal included at Attachment 1 of this report to rezone part of 55 Palmers Road, McLeans Ridges (Lot 28, DP 1130169) to R5 Large Lot Residential to facilitate the subdivision of the land to create one additional rural residential allotment; and
2. forward the Planning Proposal to the Department of Planning and Environment with a request for a Gateway Determination; and
3. agree that staff place the Planning Proposal on public exhibition and consult with Government agencies based on the Gateway Determination and report back to Council regarding any issues raised during public exhibition.

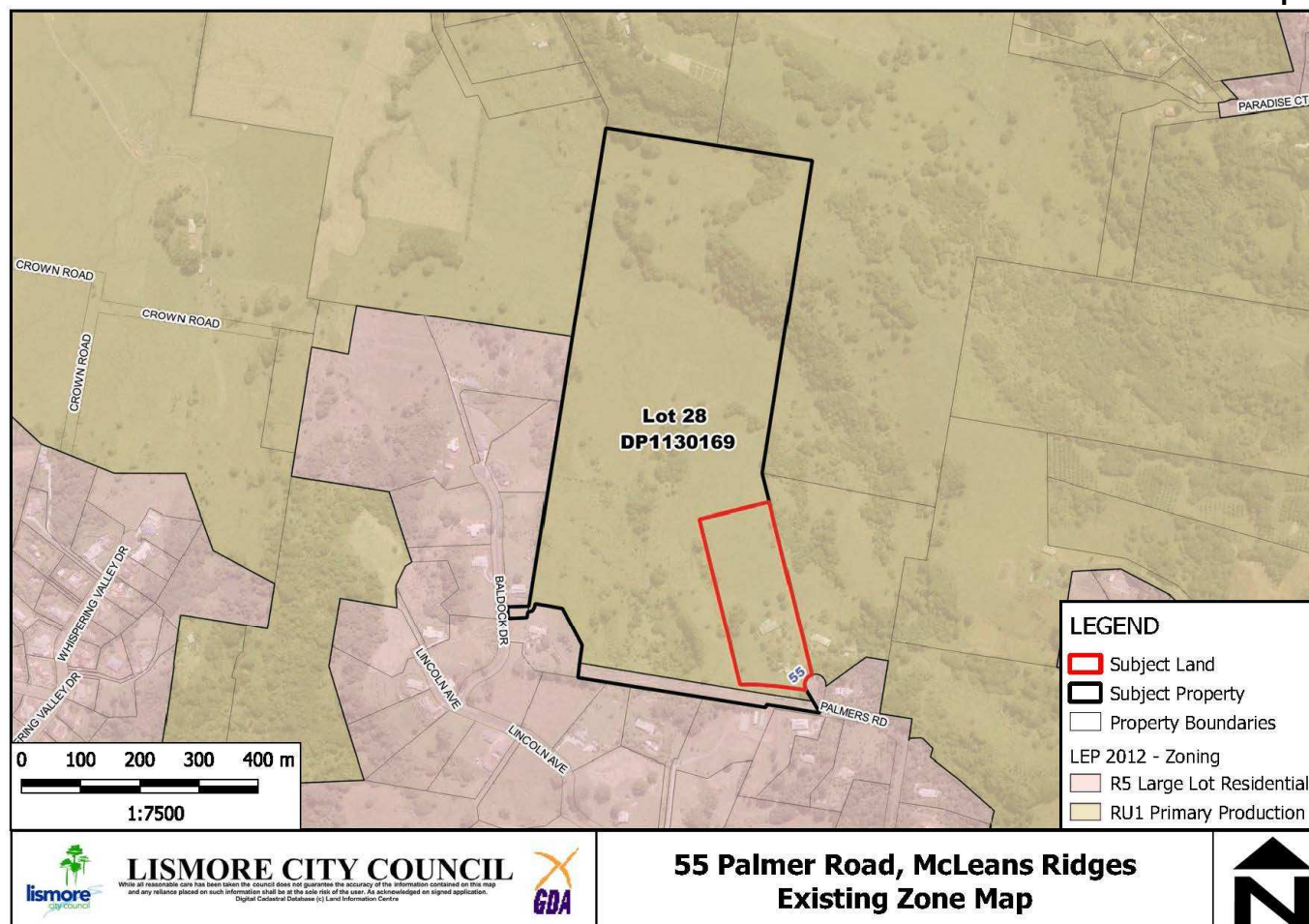
## Background

This Planning Proposal originated from a Council resolution made on 11 September 2018 that rejected a previous Planning Proposal relating to the same parcel of land. The previous Planning Proposal that Council supported on 11 April 2017 originally sought to rezone two separate areas, one accessed via Baldock Drive and the other, a long-shaped area that was to be accessed from Palmers Road. The Department of Planning and Environment subsequently issued a Gateway Determination only for the rezoning of the land area accessed from Baldock Drive as the land to be accessed via Palmers Road was considered to create potential for future land use conflict with surrounding land in RU1 that is used for agricultural purposes. The Planning Proposal was amended to rezone the land accessed from Baldock Drive to create the potential for only 1 new lot to be created and during its public exhibition, 3 public submissions were received.

The Council resolution made on 11 September 2018 supported the applicant lodging a new combined Planning Proposal/ Development Application for subdivision that minimises potential impacts on adjoining land. Staff met with the applicant on 4 October 2018 to discuss potential options for a combined Planning Proposal and DA for subdivision that would minimise impacts on adjoining landowners.

On 20 December 2018 Council received a combined Planning Proposal / Development Application for 55 Palmers Road, McLeans Ridges. The Planning Proposal seeks to rezone a 3ha area of land to Zone R5 Large Lot Residential that comprises a dwelling, pool and shed and apply a minimum lot size of 3ha and maximum building height of 8.5m consistent with land in Zone R5. The Planning Proposal will also rezone to RU1 Primary Production the two small areas of land included in the R5 zone (along the southern boundary and adjacent to Baldock Drive), likely as a result of a mapping error, and not suitable for large lot rural residential purposes as shown on the existing zone map at Figure 1.

The Planning Proposal will facilitate a subdivision to create one (1) additional allotment and the Development Application which seeks to subdivide the land from one lot into two lots will be determined when the LEP Amendment has been finalised.



**Figure 1: Existing zone – 55 Palmers Road, McLeans Ridges**

The land is not identified in Map 26 “MacLeans Ridges – Potential Large Lot Residential” of the Lismore Growth Management Strategy 2015-2035 (LGMS) that was adopted by Lismore City Council on 12 May 2015. The subject land was submitted to Council during public exhibition as a potential addition to the LGMS and was considered by Council for inclusion. However, it was rejected because the merit of the site had not been adequately addressed and the LGMS had sufficient alternative options for rural residential development.

### **The subject site**

The planning proposal applies to 55 Palmers Road, McLeans Ridges which is a 34.99-hectare allotment with frontage to Palmers Road and Baldock Drive. The land currently comprises a single dwelling, pool and shed. The land is mostly open grassland with scattered shade trees. Two steep gullies are located at the southern boundary. The site includes scattered camphor laurel with some native tree species as regrowth. A small macadamia plantation was planted on the ridgeline near the farm house, but this has since been removed, except for two trees. A stand of Tallowood trees was planted as a wind break for the macadamias, and they remain on the edge of the gully. A power line crosses near the southern boundary of the property, along the alignment of an old farm track. The site is located immediately adjacent to the established Floreat Park rural residential estate.

Established rural residential land is located on the southern and western boundaries and open grazing land is located to the north and east of the subject land as shown in Figure 2.



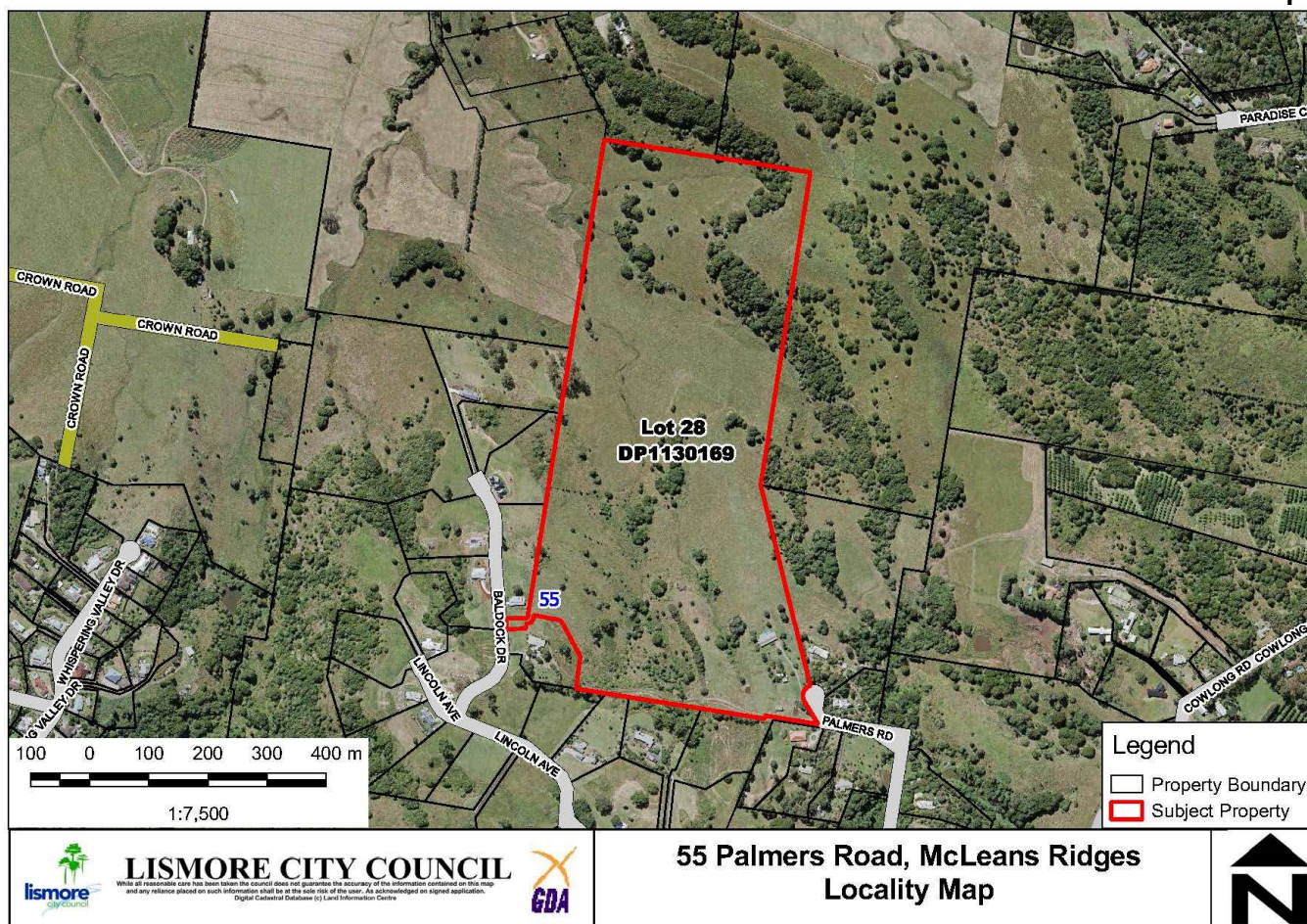


Figure 2: Aerial photo of 55 Palmers Road, McLeans Ridges

## Environmental, Social and Infrastructure Assessment

Council's technical staff reviewed the applicant's planning proposal and the assessments are summarised below. The purpose of this Planning Proposal is to facilitate a future potential subdivision (of one lot to create two lots) whereby the 'balance' parcel of approximately 30ha is retained in Zone RU1 with a dwelling entitlement. Due to the constraints of the land, the most suitable area for the new dwelling is west of the existing dwelling as shown in Figure 3 below (green circle). This area has been assessed in the technical assessment for its capability to support a new dwelling as detailed in this section of the report. Figure 4 provides a map of the site's key planning constraints.





Figure 3: Approximate location of future dwelling (circled in green)

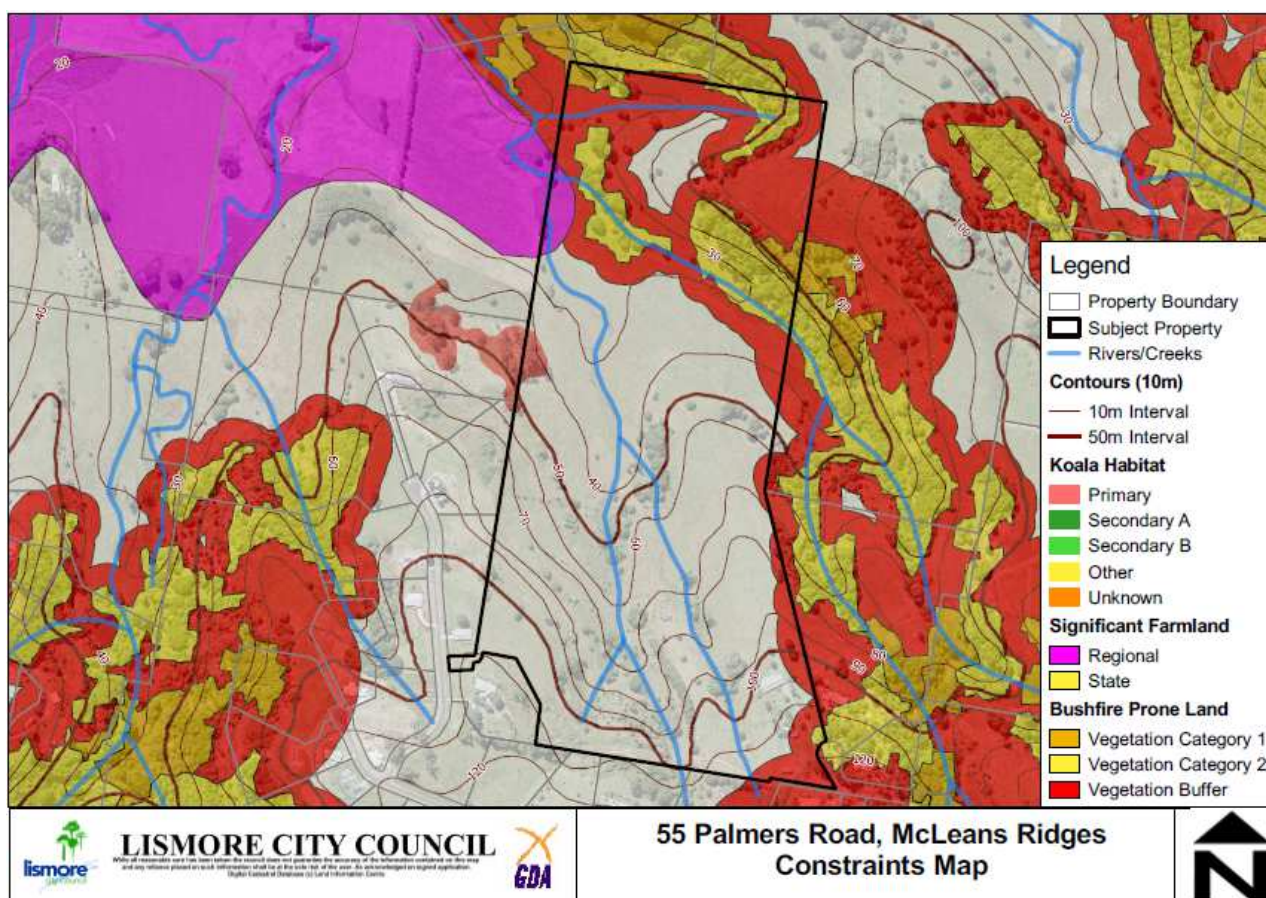


Figure 4: Constraints map – 55 Palmers Road, McLeans Ridges

## **Environmental and physical constraints**

### **Ecology**

An ecological assessment has been undertaken for the subject land by the land owner's consultant that is limited to the southern portion of the site. This assessment found that the vegetation on site is largely modified agricultural land that is predominantly camphor laurel regrowth with minimal ecological value. No threatened flora or fauna were found.

A windrow of Tallowwoods (approximately 120m in length), a preferred koala food tree, are located on a ridge that is proposed to be retained in the balance land area in Zone RU1 Primary Production. Historical aerial photography shows a previous macadamia plantation located east of the windrow.

Two hollow bearing Tallowwoods are located on the south west part of the site to be retained in the RU1 zone. They are located in a gully where they are unlikely to be affected by future development. It is likely that threatened fauna species, Micro Bats and the Grey-headed Flying fox may use vegetation on the site for foraging on a seasonal basis.

A small area of primary koala habitat is mapped along the western boundary of the site which extends across 2 land parcels west of the subject site. This area is located approximately 500 metres from the land proposed for rezoning to R5 Large Lot residential so any impacts on this koala habitat are expected to be negligible. This area of primary koala habitat is shown on Figure 4.

### **Bushfire**

The northern part of the site is mapped as comprising bushfire prone land in Vegetation Category 2 and Vegetation Buffer as shown in Figure 4. A bushfire hazard assessment has been prepared and the additional dwelling that this Planning Proposal will facilitate on the land retained in Zone RU1 Primary Production can be constructed to comply with Planning for Bushfire Protection provisions.

### **Regionally Significant Farmland**

A small area in the north western part of the subject land is identified as Regionally Significant Farmland under the Northern Rivers Farmland Mapping Project as shown in Figure 4. This small area is not impacted by the rezoning.

### **Land Use Conflict**

A Land Use Conflict Risk Assessment (LUCRA) was undertaken for this planning proposal. The rezoning of a small part of the site to R5 Large Lot Residential that comprises an existing dwelling, pool and shed will create an interface between rural and residential land uses which has the potential to generate land use conflict.

It is acknowledged that part of the western boundary and the entire southern boundary of the subject site are located adjacent to existing residential lots that are within Zone R5 Large Lot Residential which share a boundary with grazing land. This rezoning will extend the pattern of rural residential development already established in this locality by the addition of one 3ha allotment.

Council's DCP Chapter 11 'Buffer Areas' recommends that residential dwelling sites adjoining grazing land should have a 30 metre buffer setback. Due to the size of the area proposed for rezoning, this setback on each boundary may be accommodated.

With regard to the land area retained in Zone RU1 that will benefit from a dwelling entitlement, there is a negligible risk of land use conflict being generated by the development of an additional dwelling on this land because it will be associated with the agricultural use of the land. It is also noted that the landowner has obtained written confirmation that they have no objection to the Planning Proposal.



## Land Contamination

A preliminary contaminated land report has been prepared that investigates the land area being retained in Zone RU1 Primary Production in the vicinity of the location of the future dwelling. Due to the constraints of the land, the most suitable area for the new dwelling is west of the existing dwelling as shown in Figure 3 above, close to the southern boundary of the site. It is expected that this planning proposal, if approved, will result in a subdivision that will facilitate a building envelope being applied to this area of unconstrained land, to nominate the most appropriate location for a future dwelling.

The preliminary land contamination report investigates historical and current land use activities occurring on site and analyses soil samples for a range of contaminants which are compared to Environment Protection Agency acceptable levels to assess the significance of any risks. The report concluded that this area has been historically used for livestock grazing and more recently for a short-term macadamia orchard with likely chemical usage being for weed and pest control. Moreover, the report found that the investigation area would not present a risk of harm to future occupants should the land be used for residential purposes.

It is noted that the area proposed for rezoning to Zone R5 Large Lot Residential does not require investigation into the potential for contaminated land because the land is already being used for residential purposes.

## Social, economic and cultural heritage

Lismore Council has used its GMS 2015-2035 to focus future rural residential development within a 4 kilometre range of established urban areas to ensure that new residents can connect with existing social and community services such as halls, schools and local shops. Most sites also build on existing rural residential areas. This is a small addition to existing zoned rural residential land and is within 4 kilometres of the Goonellabah urban area. Overall, no major adverse social or economic impacts are predicted as a result of this planning proposal.

## Aboriginal and European Cultural Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken for the subject allotment (and a 1-kilometre buffer) on 1 February 2016. No Aboriginal sites or places were recorded or declared on that date. There are no listings of environmental heritage items or archaeological sites in Schedule 5 of Lismore LEP 2012.

The applicant has supplied a Cultural Heritage Assessment. This assessment involved consultation and a site visit with the Ngulingah Local Aboriginal Land Council (LALC) Site Officer and a member of the Widjabul/Wyabul Native Title Claim Group. The assessment found the land is unlikely to contain Aboriginal objects or sites of significance and no further archaeological investigations are required.

## Servicing and infrastructure

### Roads and Traffic

The rezoning proposal which would facilitate the creation of one additional allotment would on average create an additional 6.5 traffic movements per day. Access to the site is from Palmers Road, a 5m sealed cul-de-sac that terminates at the subject site. Palmers Road has been assessed as being in satisfactory to good condition and able to accommodate a minor increase in traffic.

At the subdivision stage an upgrade of the cul-de-sac would be expected because it is only 12m in diameter, whereas current road design standards require a minimum of 18-20m diameter. It is anticipated that the upgrade could be either a localised widening of the cul-de-sac or the installation of a turning T pavement footprint.

## On-site Wastewater Management

An on-site wastewater management assessment has not been prepared for the area proposed for rezoning that comprises the existing dwelling. However, Council's Environmental Health Officer has inspected the site and is satisfied that the existing sewage system meets Council's Onsite Wastewater Management Strategy with regard to buffer distances to potential future property boundaries. In addition, the size and topography of the proposed rezoning area offers numerous locations should the existing onsite sewage management system need upgrading in the future.

With regard to the area being retained in Zone RU1 Primary Production that, should this rezoning be approved, is expected to be accommodate a future dwelling, an onsite wastewater report has been completed that advises the main constraints on this area (as shown on Figure 4) are two watercourses on the eastern and western parts of the land. These watercourses are each located in a steep gully on both sides of a narrow section of land that is proposed for a future dwelling and wastewater disposal. Due to these site constraints, at the subdivision stage, a section 88b instrument will be placed on the title to restrict the maximum number of bedrooms for any future dwelling and the location of the effluent disposal areas, unless additional information can be provided to justify a variation to this advice. In addition, a detailed site and constraints map and onsite sewage management report will be required at the subdivision stage to demonstrate setback distances can be met to watercourses and property boundaries.

## Stormwater

At the subdivision stage, the applicant will be required to ensure that there will be no net increase in stormwater discharge from the site when compared to the pre-developed rural catchment. The land is within a drinking water catchment and the Water Sensitive Design Chapter 22 of the Lismore Development Control Plan may apply.

## Water and Infrastructure

The future dwelling will harvest rainwater for a potable water supply as a reticulated water service is not available. A section 7.11 infrastructure contributions plan for Lismore LGA was adopted by Council in 2014 and contributions for public infrastructure will apply to new rural dwellings and new rural lots.

## Overview of the Planning Proposal

It is proposed that the Lismore Local Environmental Plan 2012 be amended as follows:

- Amend the Land Zoning Map to change a 3ha part of the subject land from RU1 Primary Production to R5 Large Lot Residential;
- Amend the Land Zoning Map to change two small parts of the subject land from R5 Large Lot Residential to RU1 Primary Production;
- Amend the Minimum Lot Size (MLS) Map to change the part of the subject land in the proposed R5 zone from 40 hectares to 3 hectares; two small parts of the subject land from 2 hectares to 30 hectares (those areas zoned R5); and the balance portion of the land to have a MLS of 30ha applied;
- Amend the Height of Building Map to change part of the subject land from no maximum building height to a building height of 8.5 metres (that part to be rezoned to R5);
- Amend the Height of Building Map to change two small parts of the subject land from a building height of 8.5 metres to no maximum building height.

Changing the land use zone to R5 Large Lot Residential in conjunction with reducing the minimum lot size to 3 hectares will facilitate the subdivision of the land to create one allotment of 3ha comprising the existing dwelling. The balance parcel will be retained in Zone RU1 Primary Production with a minimum lot size of 30ha to ensure the land benefits from a dwelling entitlement. The two small areas currently in Zone R5 (the strip in the southern part of the site and the area near Baldock Drive) are zoning anomalies that are proposed to be amended as these areas are unable to be used for rural residential development.



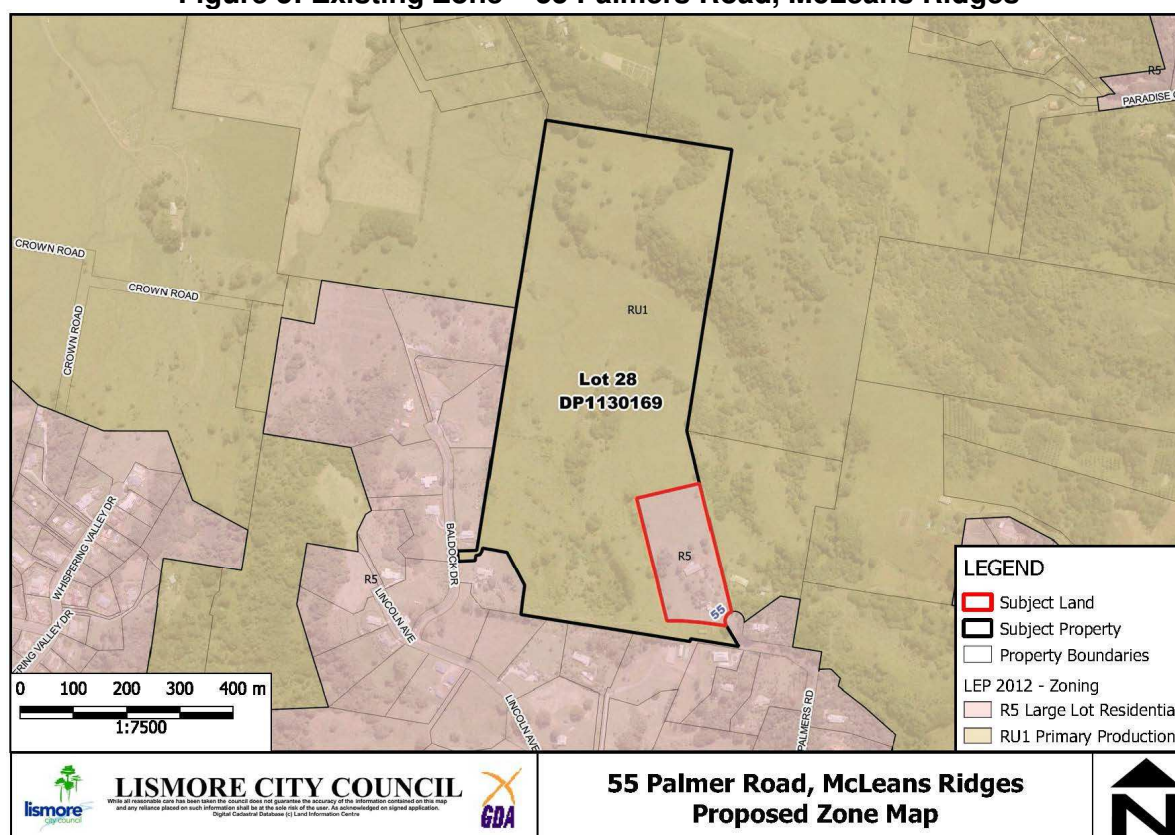
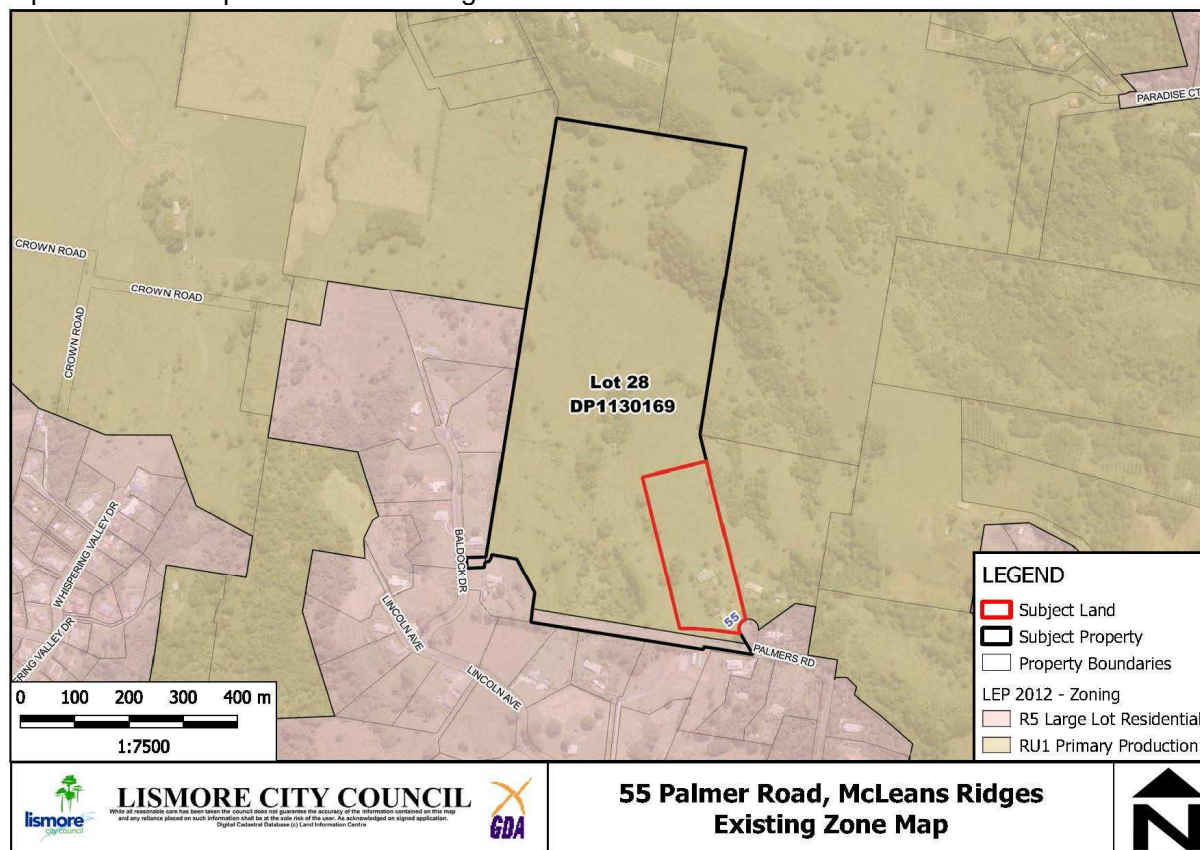
Table 1: Summary of Planning Proposal

PART	REQUIREMENTS	DESCRIPTION OF PLANNING PROPOSAL
1	<b>OBJECTIVES OR INTENDED OUTCOMES</b>	The objective of the planning proposal is to enable the subdivision of 55 Palmers Road, McLeans Ridges (Lot 28, DP1130169) to create one (1) allotment for a dwelling. It will also remove two small areas of land zoned for large lot rural residential development that are not able to be used for that purpose.
2	<b>EXPLANATION OF PROVISIONS</b>	Changing the land use zone on part of the land that contains the existing dwelling to Zone R5 Large Lot Residential in conjunction with reducing the Minimum Lot Size to 3 hectares will allow subdivision into 1 rural residential lot. The balance of the subject land will be retained in RU1 Primary Production with a minimum lot size of 30 hectares and a dwelling entitlement. No amendments are proposed to the LEP written instrument.
3	<b>JUSTIFICATION</b> <b>Section A- Need for the Planning Proposal</b> <i>Is the planning proposal a result of any strategic study or report?</i> <i>Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</i>	The <i>Lismore Growth Management Strategy 2015-2035</i> (GMS) does not identify the subject land on Map 26 "McLeans Ridges – Potential Large Lot Residential". However this Planning Proposal can be justified based on its minor size (only resulting in 1 new lot), technical reporting that does not reveal any impediments and the development outcome that will be consistent with the rural residential nature of surrounding development.  The Planning Proposal is the best means to achieve the objective because rezoning of the land is required to enable further subdivision.
4	<b>JUSTIFICATION</b> <b>Section B- Relationship to Strategic Planning Framework</b> <i>Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?</i> <i>Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan?</i> <i>Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP)?</i> <i>Is the Planning Proposal consistent with applicable s117 Ministerial Directions?</i>	In relation to rural settlement in non-coastal areas the North Coast Regional Plan (NCRP) states at Action 24.1 that the delivery of well-planned rural residential housing will be facilitated by identifying new rural residential areas in local growth management strategies agreed to by the Department. This Planning Proposal is not in accordance with the LGMS but it is arguably consistent with the NCRP as it is not within the coastal strip. The one rural residential lot that will result from this Planning Proposal will be accessed from Palmers Road that services an existing estate. It will have access to existing reticulated power. Water will be collected on site and wastewater will be disposed of on site. Urban services are about 4km away in Goonellabah.  The planning proposal is consistent with the Lismore City Council Delivery Program 2017 – 2021 Strategy "Ensure a diverse range of land use and development opportunities are available".

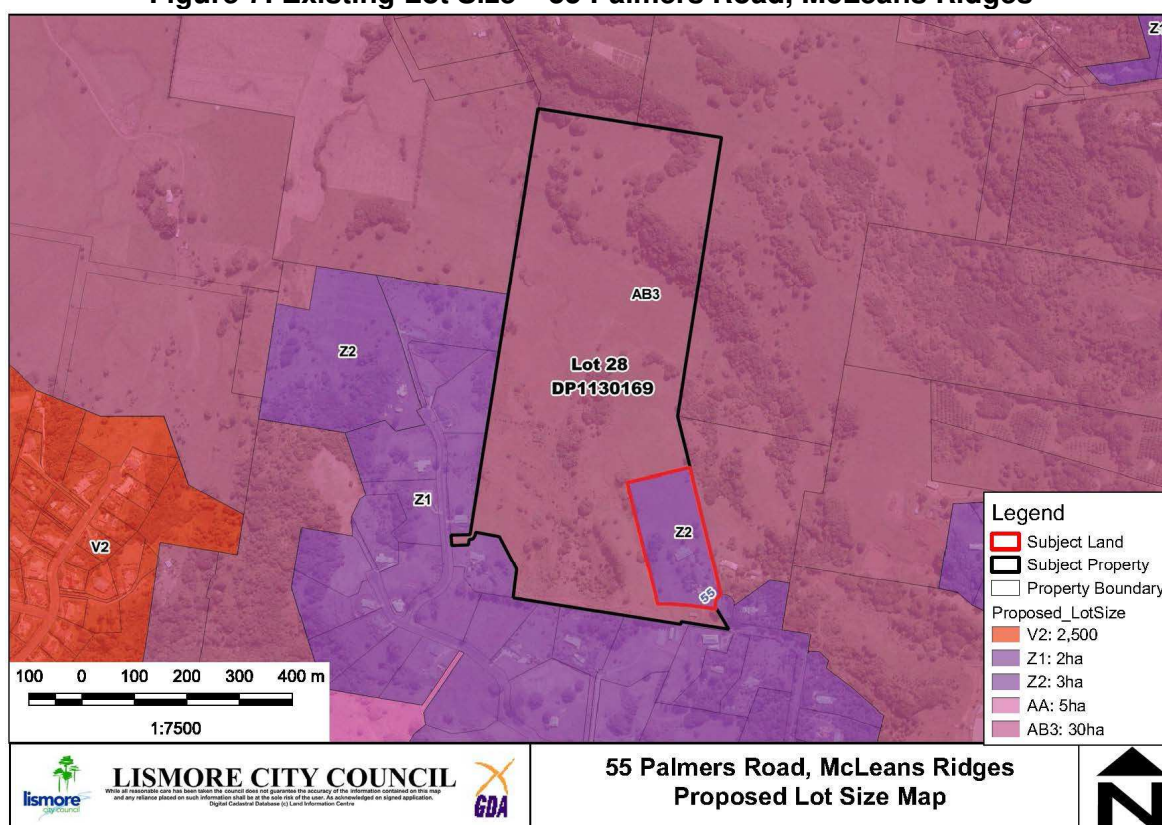
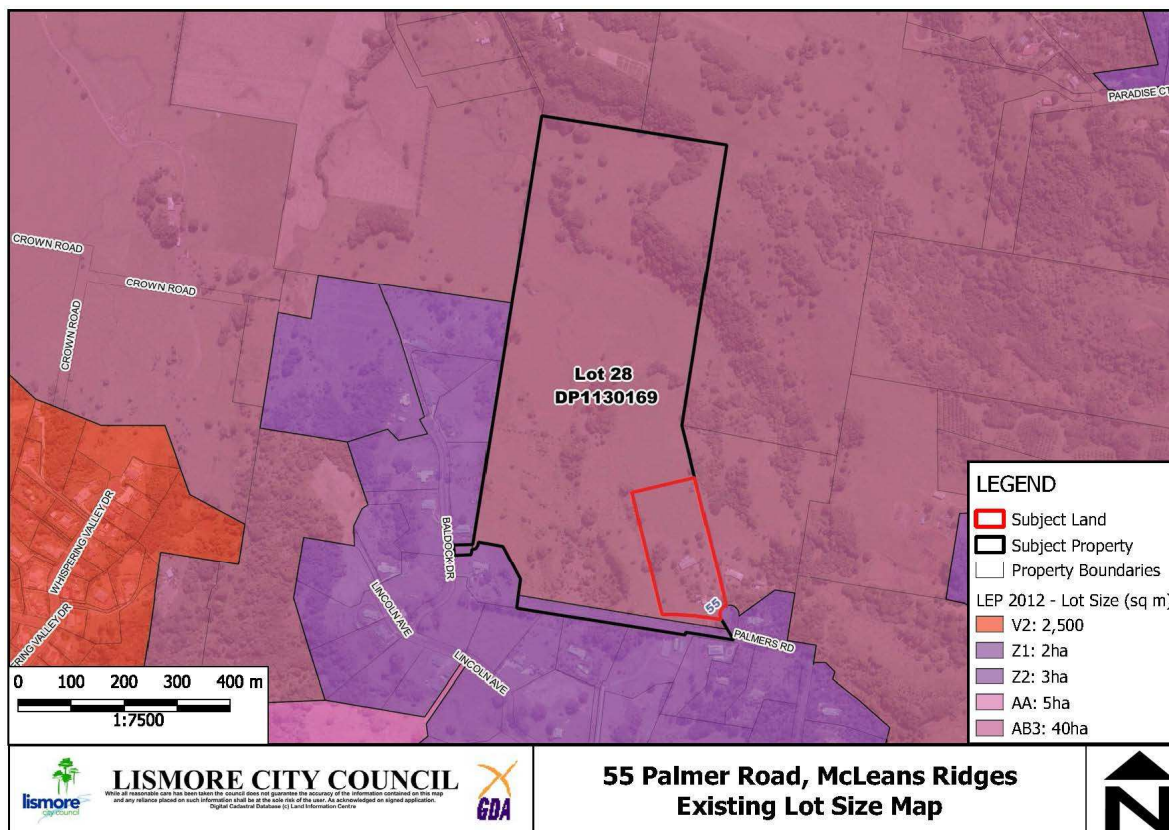
PART	REQUIREMENTS	DESCRIPTION OF PLANNING PROPOSAL
		This proposal is consistent with the relevant SEPP's and s9.1 Ministerial Directions as outlined in Attachment 1.
5	<b>JUSTIFICATION</b> <b>Section C- Environment, Social and Economic Impact</b> <i>Is there any likelihood that critical habitat of threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?</i> <i>Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?</i> <i>Has the Planning Proposal adequately addressed any social and economic effects?</i>	<p>An ecological assessment has been undertaken for the subject land by the landowner's consultant. This assessment found that the forest vegetation on the site is predominantly camphor laurel regrowth with minimal ecological value. Two old growth Tallowood trees are located in a gully that will remain in the RU1 zone.</p> <p>A Cultural Heritage Assessment has been supplied that found the land is unlikely to contain Aboriginal objects or sites of significance and no further archaeological investigations are required.</p> <p>Due to the nature and scale of the planning proposal there are not expected to be any significant adverse social or economic effects.</p>
6	<b>JUSTIFICATION</b> <b>Section D - State and Commonwealth Interests</b> <i>Is there adequate public infrastructure for the Planning Proposal?</i> <i>What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?</i>	<p>Council staff have carried out a preliminary assessment of public infrastructure that is required and available. Commentary is included in the Environmental, Social and Economic Assessment section above.</p> <p>It is proposed that the public authorities listed below are consulted and that this consultation is undertaken concurrent with the public exhibition of the Planning Proposal:</p> <ul style="list-style-type: none"> <li>• Rural Fire Service and</li> <li>• Department of Primary Industries</li> <li>• Office of Environment and Heritage</li> </ul>
7	<b>MAPPING</b>	<p>The rezoning of part of the subject land and associated changes to lot size and building height will be achieved by amending Lismore LEP 2012 map sheets:</p> <p>LZN_005 LSZ_005 HOB_005</p>
7	<b>COMMUNITY CONSULTATION</b>	A 14-day community consultation period is recommended but this will be confirmed in the Gateway determination.
8	<b>PROJECT TIMELINE</b>	Recommendation of 12 months for completion. Refer to Attachment 1 for detail.
9	<b>DELEGATIONS</b>	Recommendation for Council to exercise plan making delegations.

## Local Environmental Plan Maps

The proposed LEP maps are shown in Figures 4-9 below.









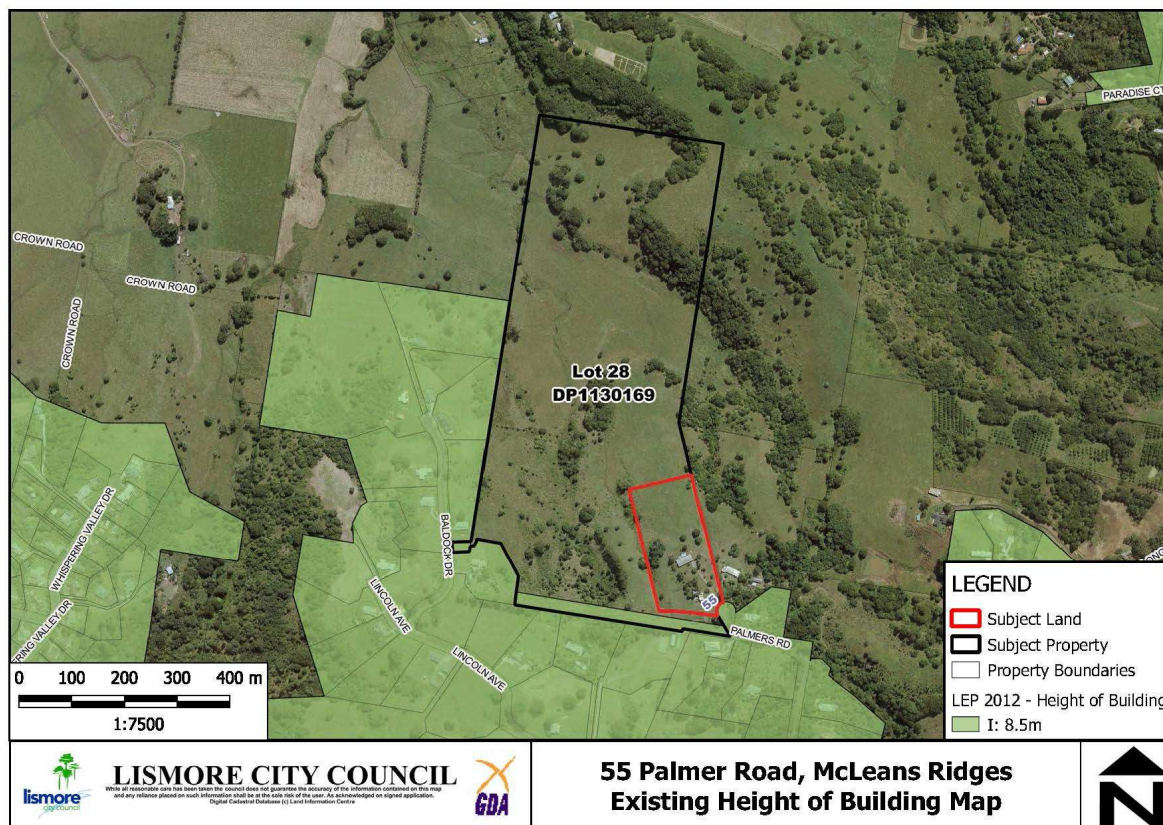


Figure 9: Existing Height of Buildings – 55 Palmers Road, McLeans Ridges

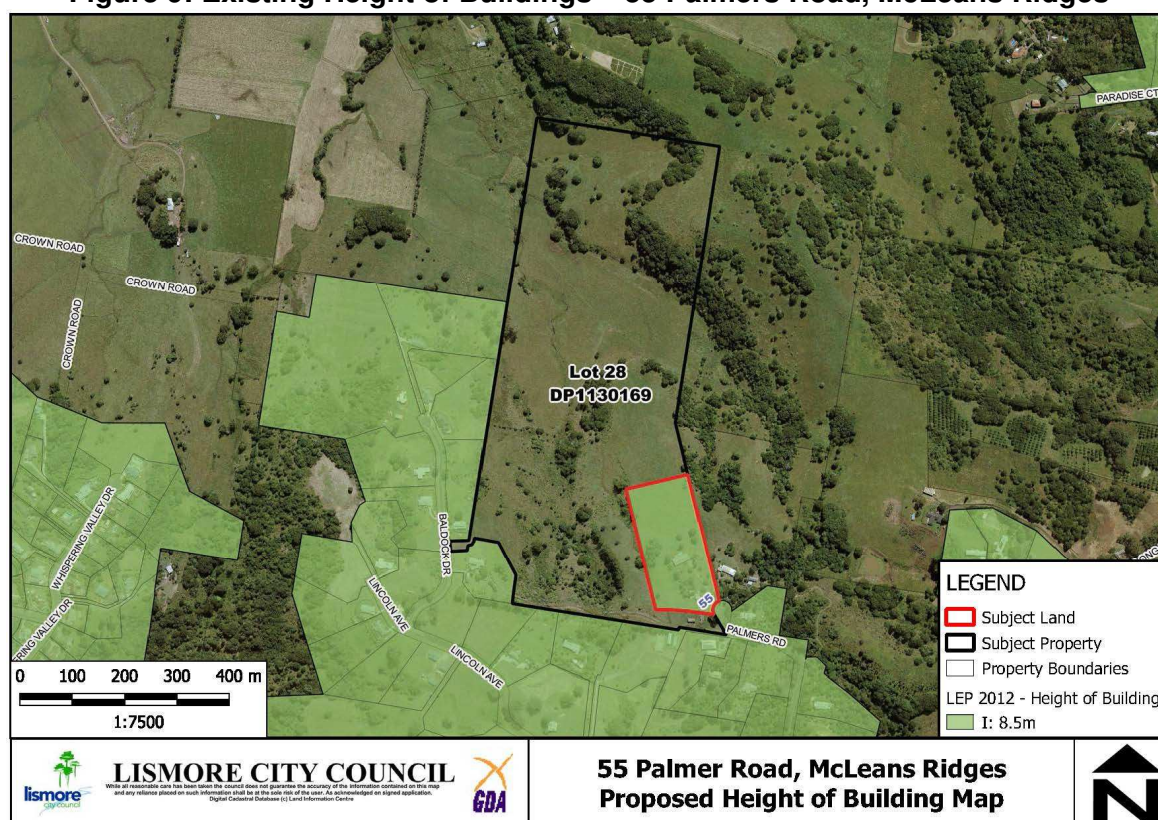


Figure 10: Proposed Height of Buildings – 55 Palmers Road, McLeans Ridges

## Comments

### Finance

Not required.

## Other staff comments

Council's specialist staff have assessed the Planning Proposal as required and their comments are incorporated into the relevant sections of this report.

## Public consultation

Council will carry out public consultation on the Planning Proposal following Gateway Determination. For the purposes of public notification, it is considered that a fourteen (14) day exhibition period is appropriate. Notification of the planning proposal will include:

- Publication in Council's Local Matters that circulates in the area affected by the planning proposal.
- Placing a notice on the websites of Council and the Department Planning and Environment.
- Written notification to adjoining land owners.

The written notice will:

- Provide a brief description of the objectives or intended outcomes of the planning proposal.
- Indicate the land that is the subject of the planning proposal.
- State where and when the planning proposal can be inspected.
- Provide detail that will enable members of the community to make a submission.

Material to be exhibited will include:

- The planning proposal, in the form approved for community consultation by the Director General of the Department of Planning and Environment.
- The Gateway determination.
- Any studies required as part of the planning proposal.

The Gateway Determination will confirm community consultation requirements.

## LEP delegations

Council resolved at its Ordinary meeting of 11 December 2012 to accept the delegations which enable Council to process the final stages of a planning proposal (LEP amendment). The delegations only extend to routine LEPs. Delegations will be outlined in the Gateway Determination.

## Conclusion

This Planning Proposal is the result of a Council resolution made in September 2018 that supported a combined Planning Proposal / Development Application for subdivision that minimises potential impacts on adjoining land. Technical reporting on land use conflict, land contamination, onsite wastewater disposal, cultural heritage, ecology, and bushfire hazard has not revealed any impediments that cannot be resolved, and no further reporting is required prior to the finalisation of the Planning Proposal.

Any inconsistencies with the Lismore Growth Management Strategy 2015-2035 and the North Coast Regional Plan are justified and the Planning Proposal complies with most of the relevant SEPPs and section 9.1 Directions as outlined in Attachment 1 to this report. There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning, Environment and Industry seeking a Gateway determination.

## Attachment/s

1. Planning Proposal (Over 7 pages)