

## Planning and Assessment

IRF19/5194

### Gateway determination report

<b>LGA</b>	Lismore
<b>PPA</b>	Lismore City Council
<b>NAME</b>	Rezone part of 55 Palmers Road, McLeans Ridges (1 home, 0 jobs)
<b>NUMBER</b>	PP_2019_LISMO_003_00
<b>LEP TO BE AMENDED</b>	Lismore Local Environmental Plan 2012
<b>ADDRESS</b>	55 Palmers Road, McLeans Ridges
<b>DESCRIPTION</b>	Lot 28 DP 1130169
<b>RECEIVED</b>	18 July 2019 (with additional information received 12 August 2019 and 4 September 2019)
<b>FILE NO.</b>	IRD19/43598
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	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 amend Lismore Local Environmental Plan (LEP) 2012 to rationalise the existing RU1 Primary Production and R5 Large Lot Residential split zoning on the site to facilitate a large lot rural residential allotment and a rural dwelling on Lot 28 DP 1130169, 55 Palmers Road, McLeans Ridges. The proposed large lot residential allotment will be in the location of the existing dwelling on the site. Associated changes are proposed for the minimum lot size and height of building standards. These changes will also permit a dwelling on the rural residue of the land.

### 1.2 Site description

Lot 28 DP 1130169 is approximately 35 hectares in area (**Figure 1**). The site has been largely cleared in the past and the northern and eastern portions are open grazing land. Shade trees, including camphor laurel, a stand of Tallowood and some other native tree regrowth, are scattered across the site.

The topography is generally steep with gullies running through the centre and across the northern part of the land. The land is mapped as partly bushfire prone and partly regionally significant farmland (**Figure 2**) and is in the Wilsons River drinking water catchment (**Figure 3**).

A dwelling, shed and stockyards are located on the south-eastern part of the site and powerlines cross the southern boundary.

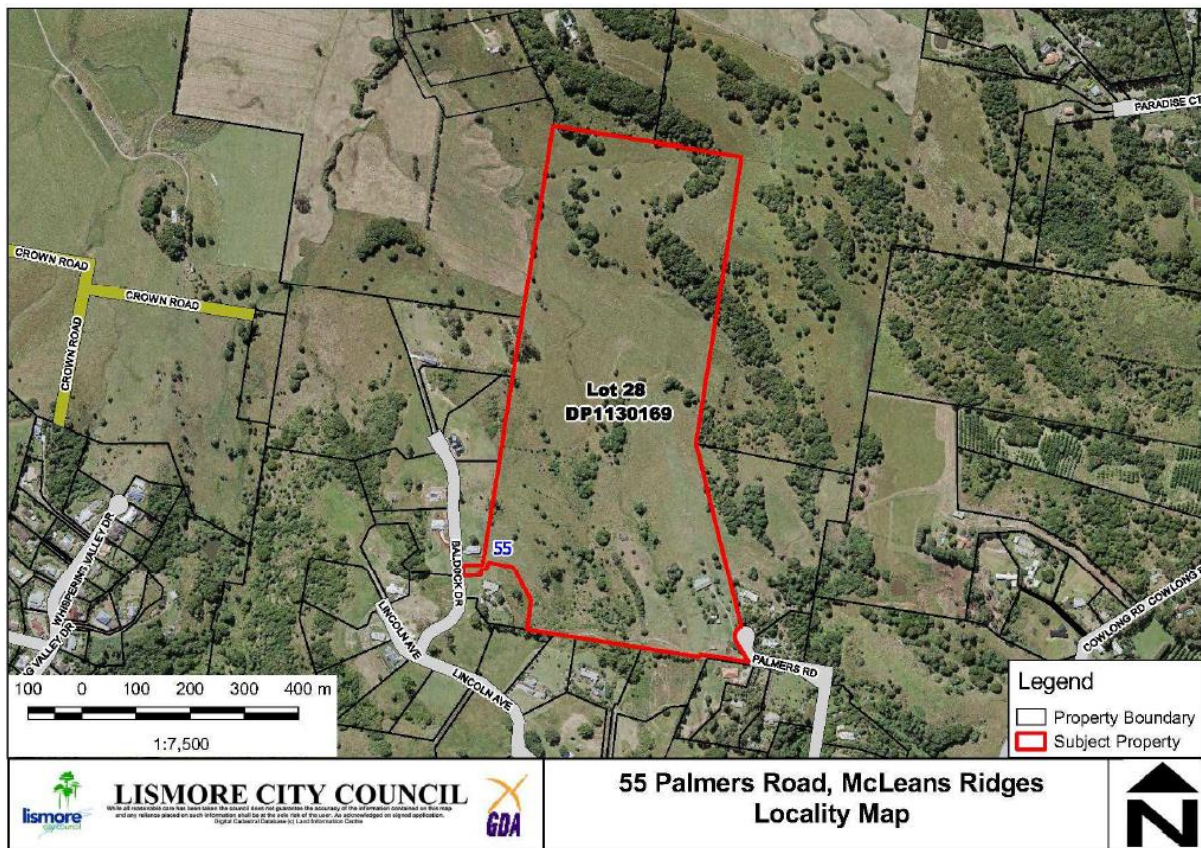


Figure 1: Site Locality (Source: Lismore City Council Planning Proposal)

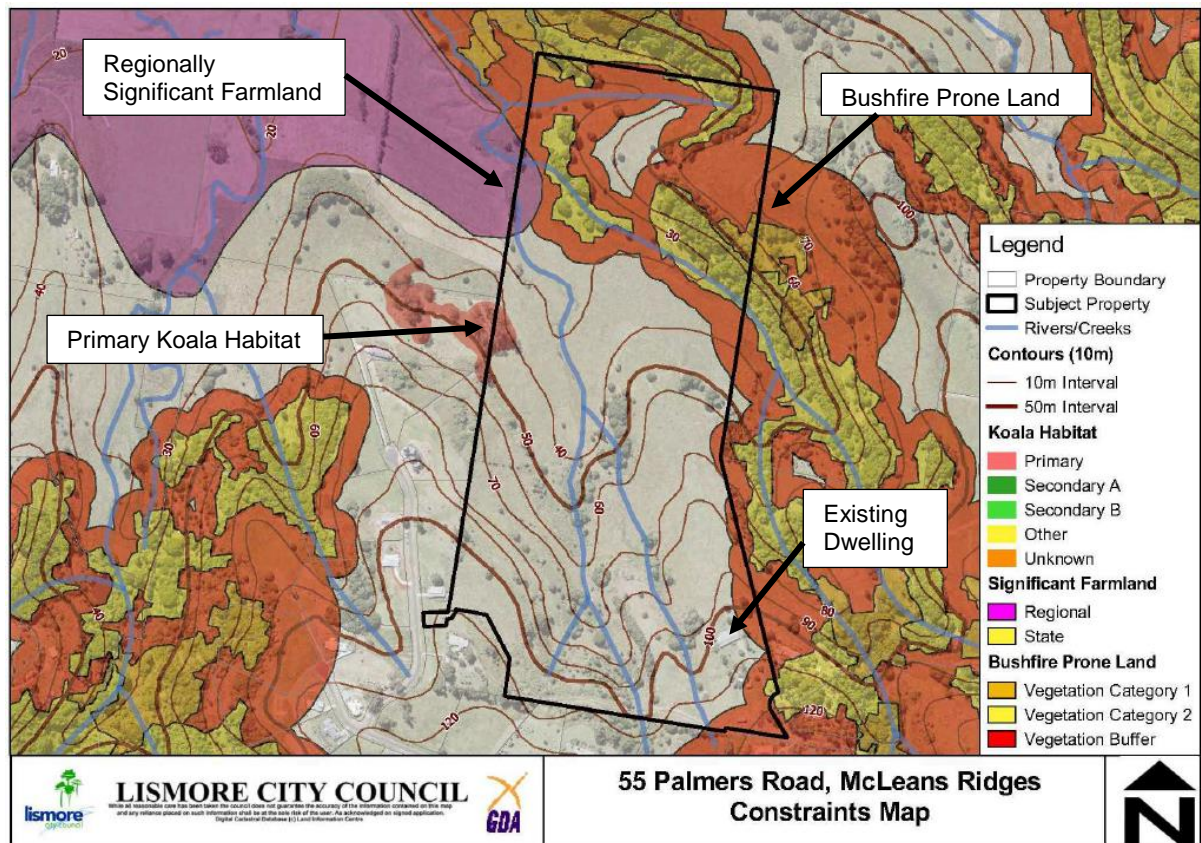




Figure 2: Site constraints map, including bushfire prone land and regionally significant farmland (Source: Lismore City Council Planning Proposal)

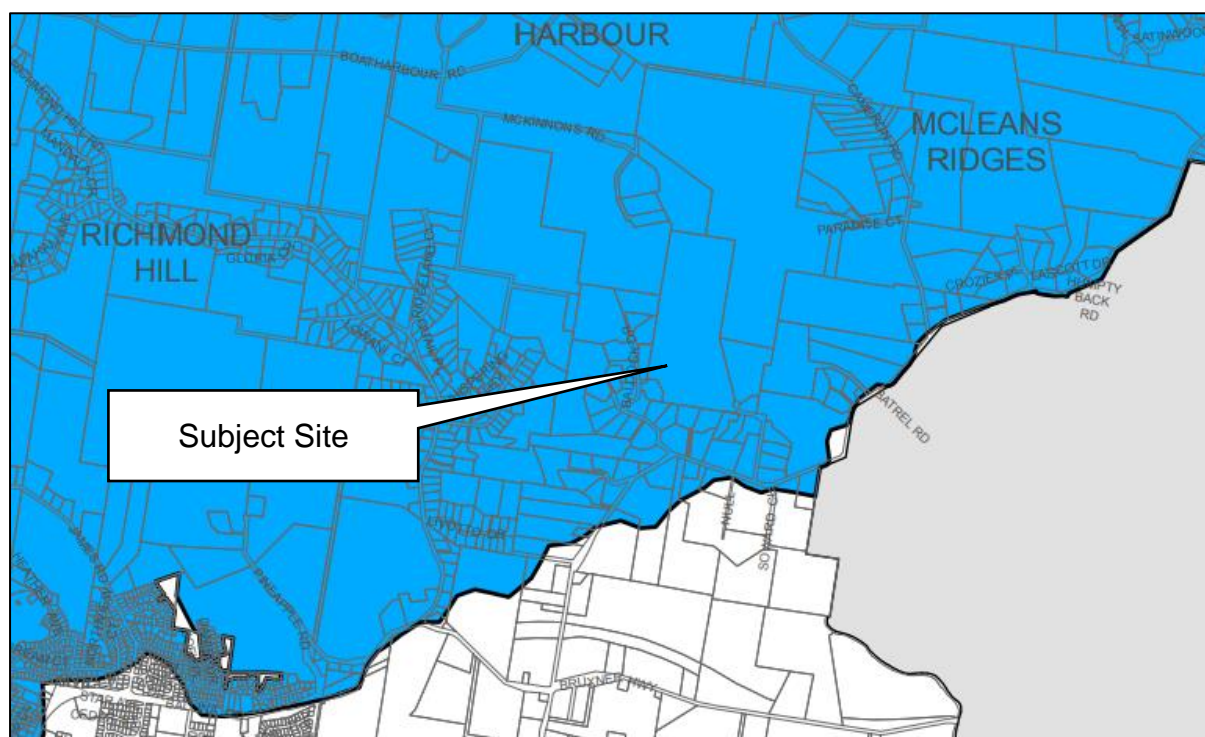


Figure 3: Drinking water catchment (Source: Lismore LEP 2012)

### 1.3 Existing planning controls

The lot has a split zoning under Lismore LEP 2012. Most of the parcel is zoned RU1 Primary Production and two small sections along the southern boundary (with a total area of about 8,000m<sup>2</sup>) are zoned R5 Large Lot Residential (**Figure 4**).

The RU1 area of the lot has a 40-hectare MLS and no maximum building height limit. The R5 area has a two hectare MLS and 8.5 m maximum building height limit.

Portions of the site that are mapped as regionally significant farmland and primary koala habitat are not affected by this planning proposal.

### 1.4 Surrounding area

The site is surrounded by large lot residential land parcels to the south and west, and agricultural land to the north and east. Two access points are situated at Palmers Road in the southeast, and Baldock Drive in the southwest. Goonellabah lies approximately 3 km to the south west and Lismore CBD, the major city centre for this area, is approximately 9 km to the west (**Figure 5**).

### 1.5 Summary of recommendation

The proposal seeks to rationalise the existing split zoning on the site by facilitating a large lot rural residential allotment and a rural dwelling on 55 Palmers Road, McLeans Ridges. Associated changes to the minimum lot size and height of building development standard will be required.

It is considered that the proposal has merit subject to being amended to reduce the size of the proposed R5 Large Lot Residential Area from three hectares to two hectares consistent with the adjoining R5 lands. The planning proposal is recommended to proceed subject to conditions for the following reasons:

- the proposal will enable the removal of the current split zoning and rationalise the R5 Large Lot Residential zoning into a useable and functional size and location; and
- the proposal will provide additional rural residential development which is identified as currently having a shortfall in Council's Department approved Growth Management Strategy.

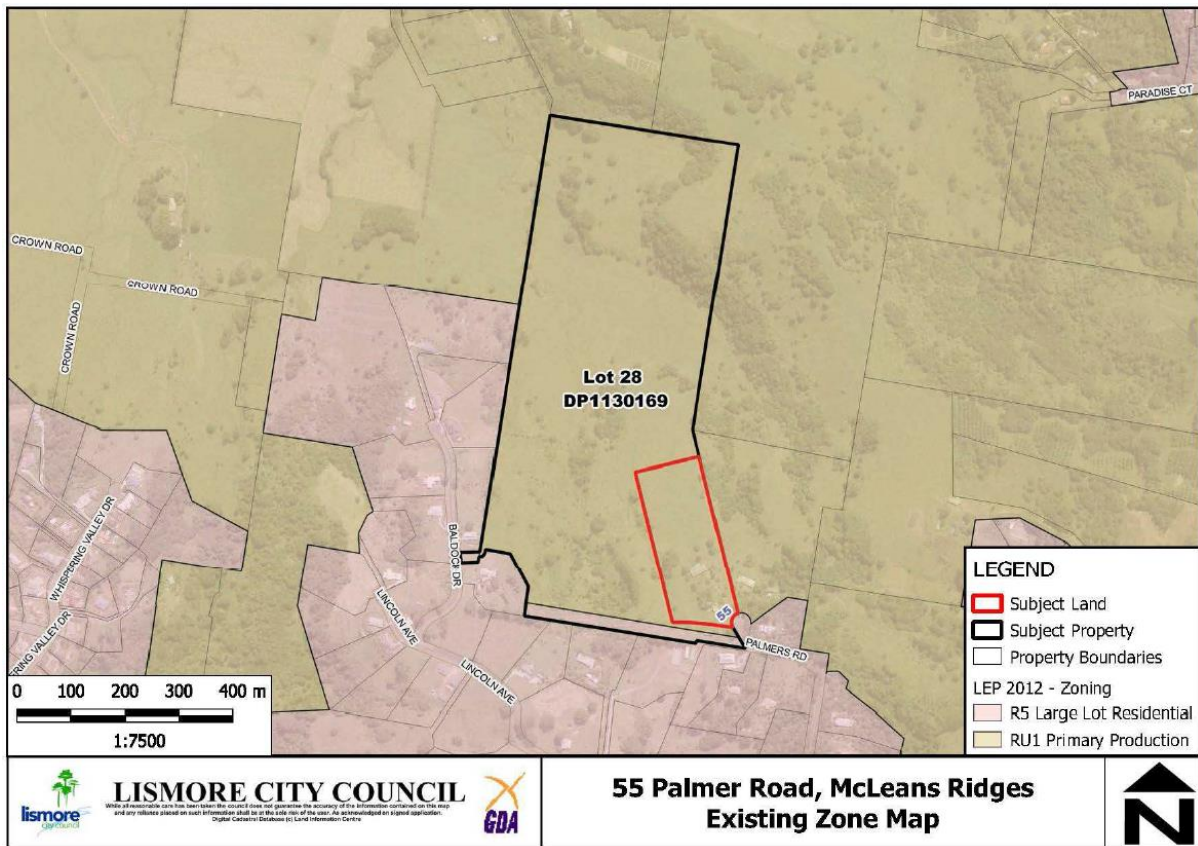


Figure 4: Existing Zone Map (Source: Lismore City Council Planning Proposal)

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

The objectives of the planning proposal are to amend Lismore LEP 2012 to rationalise the existing split zoning on the site to facilitate a large lot rural residential allotment and a rural dwelling on 55 Palmers Road, McLeans Ridges (Lot 28 DP 1130169).

The objectives will be achieved through amendments to the zoning, minimum lot size and height of buildings maps in the Lismore LEP 2012.





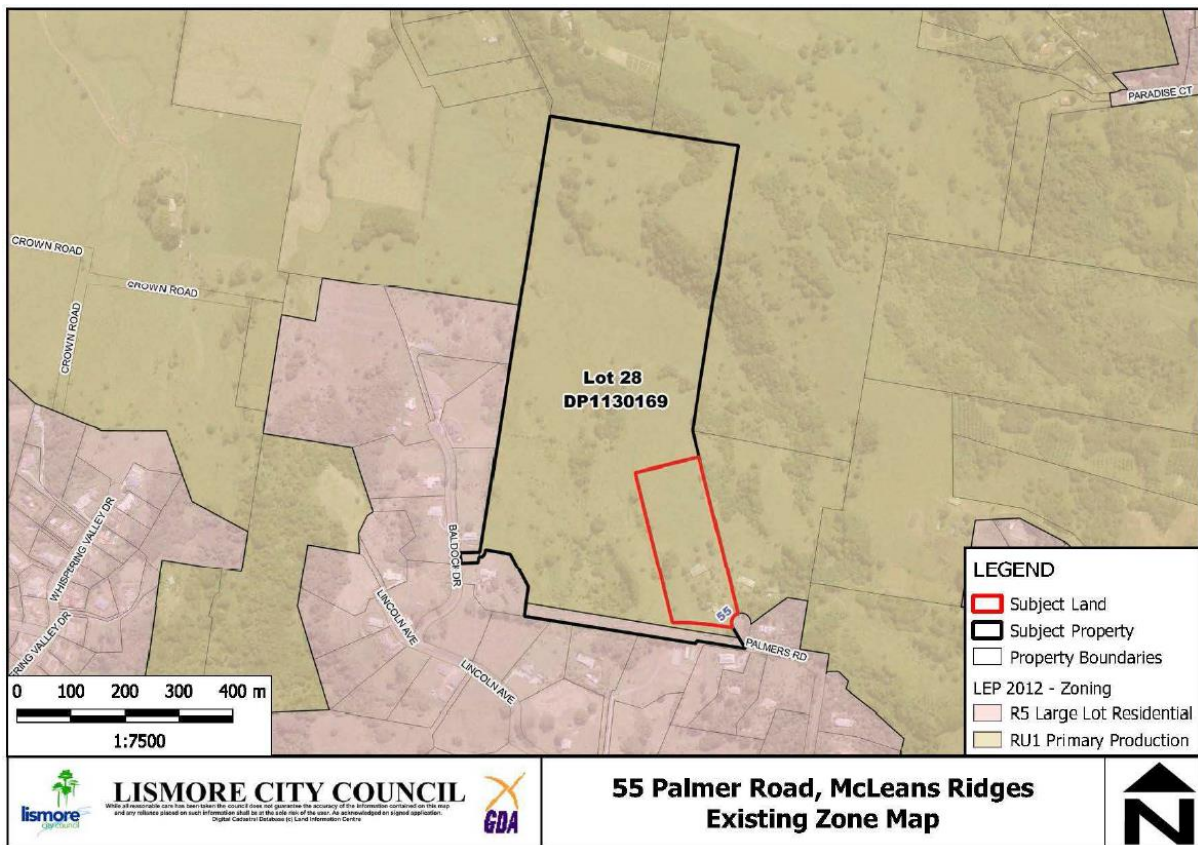


Figure 6: Existing Zone Map (Source: Lismore City Council Planning Proposal)

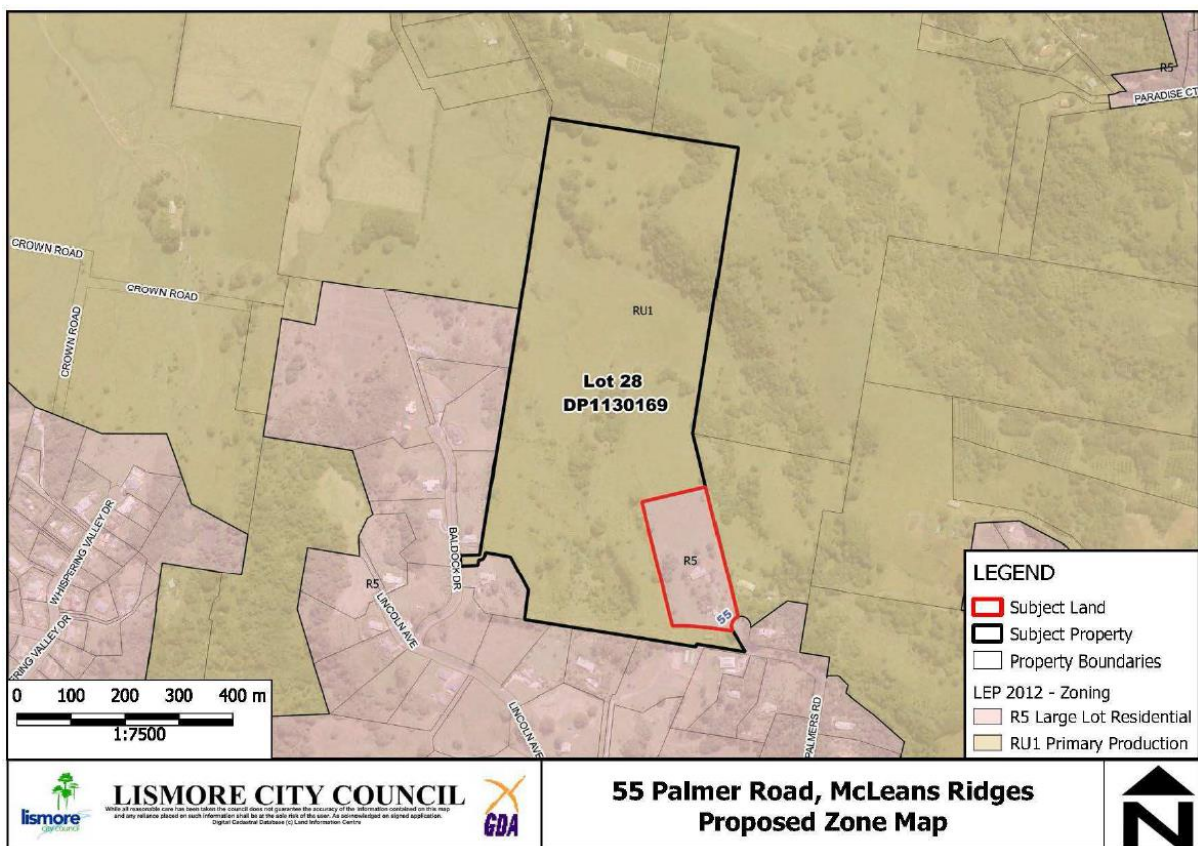


Figure 7: Proposed Zone Map (Source: Lismore City Council Planning Proposal)



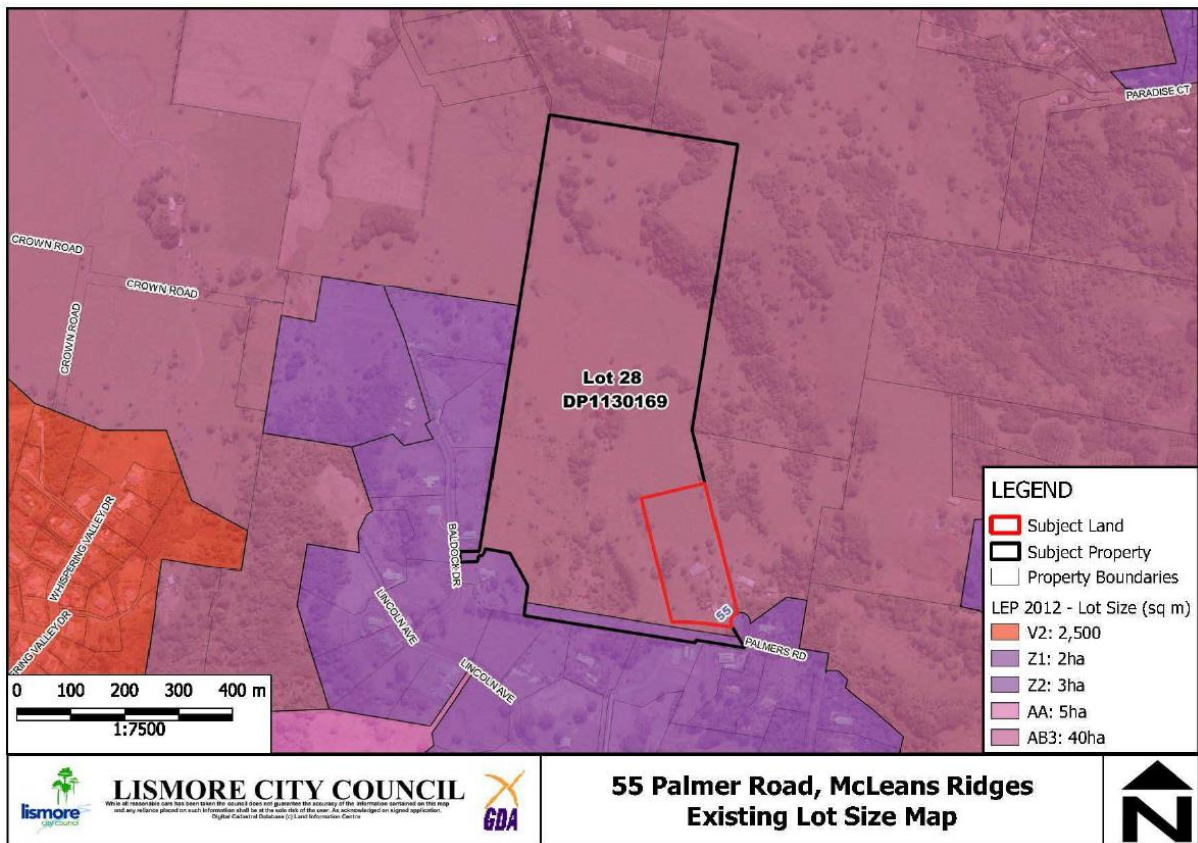


Figure 8: Existing Lot Size Map (Source: Lismore City Council Planning Proposal)

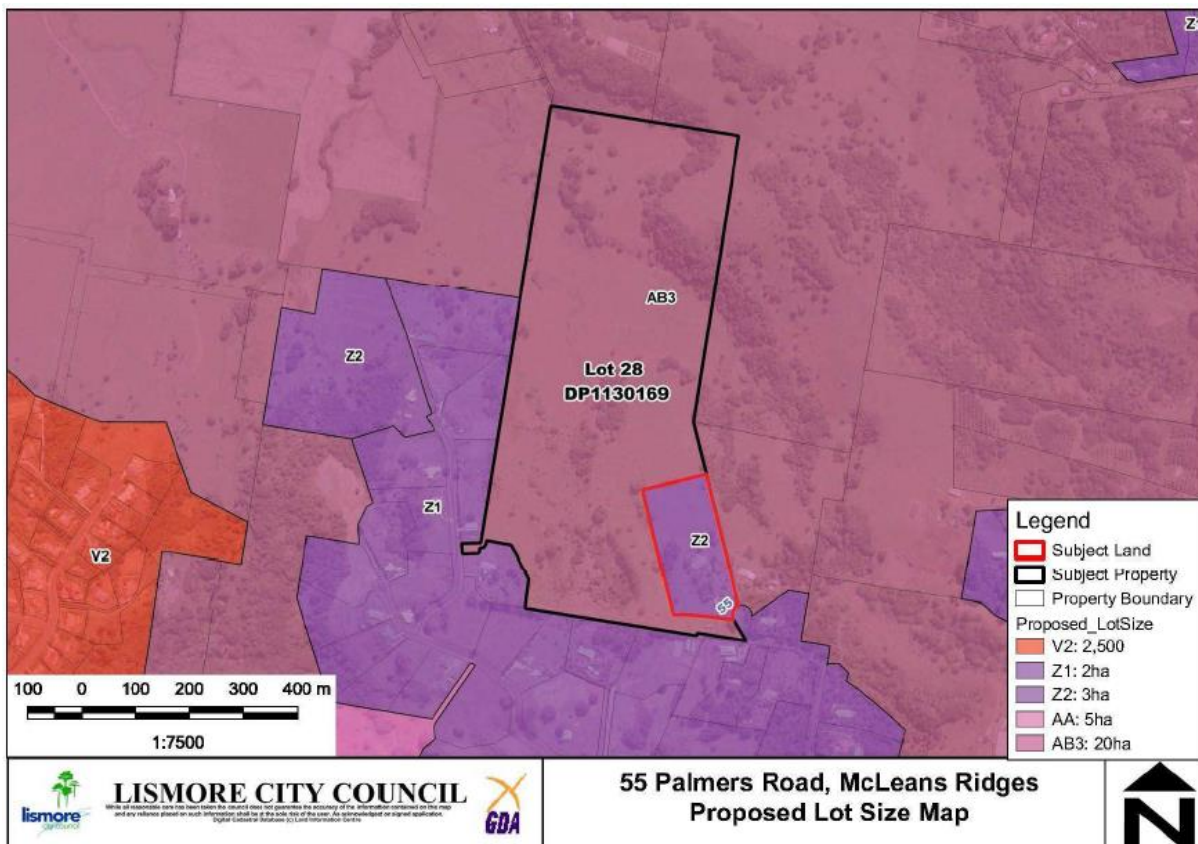


Figure 9: Proposed Lot Size Map (Source: Lismore City Council Planning Proposal)



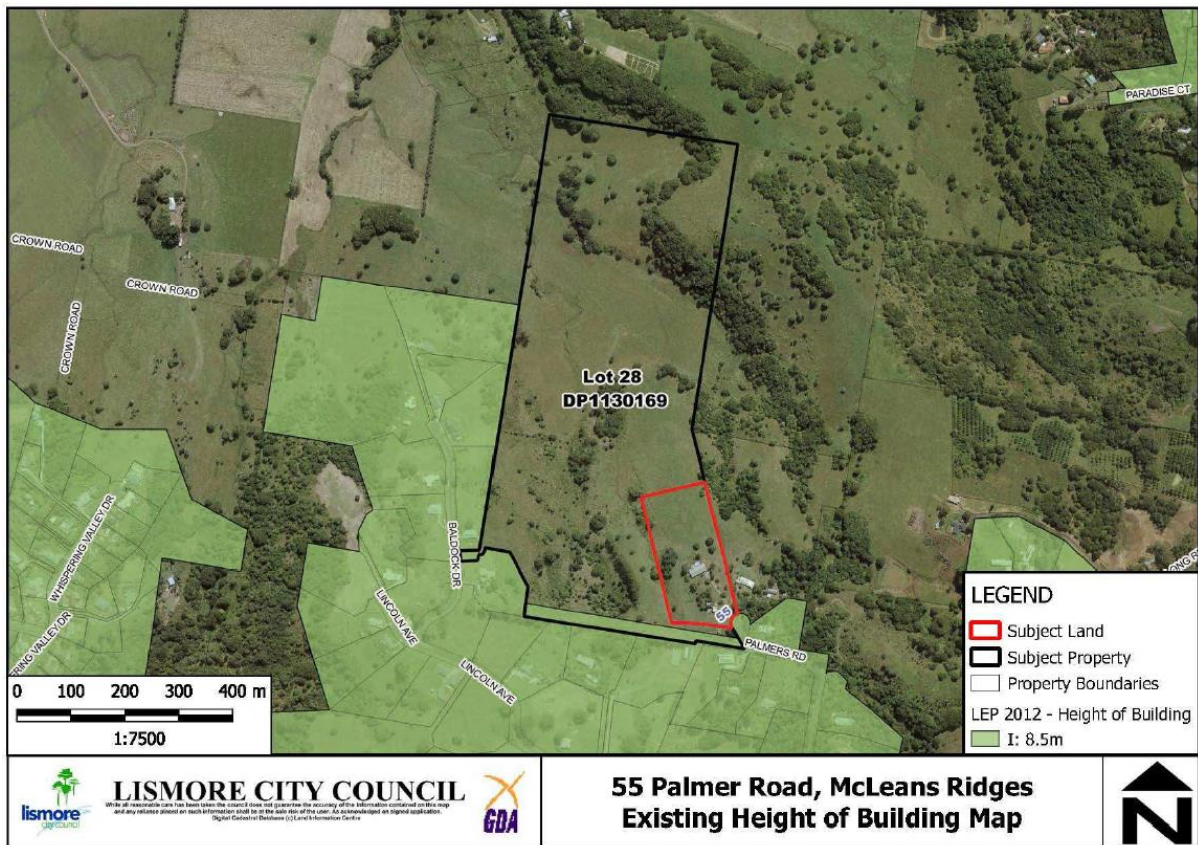


Figure 10: Existing Height of Building Map (Source: Lismore City Council Planning Proposal)

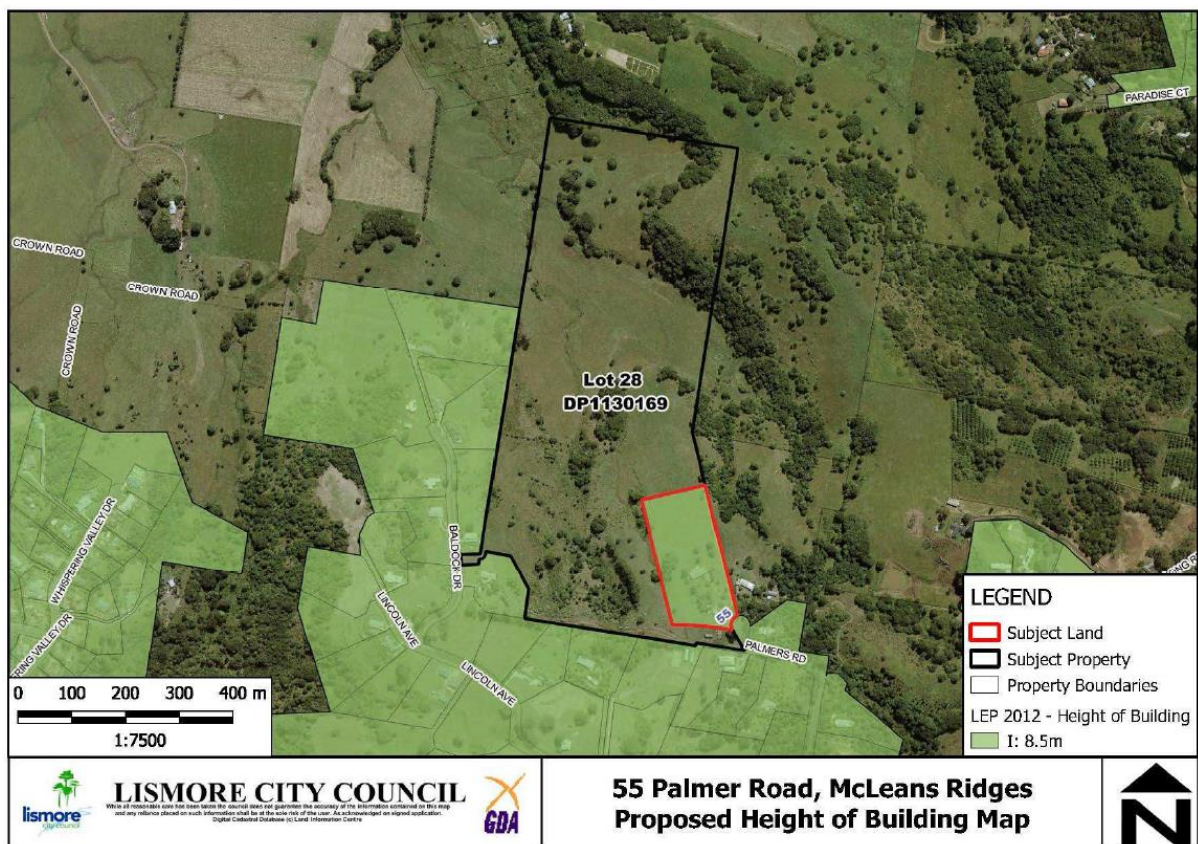


Figure 11: Proposed Height of Building Map (Source: Lismore City Council Planning Proposal)



### 3. NEED FOR THE PLANNING PROPOSAL

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The planning proposal is not the subject of any strategic study or report, and the land is not identified for rural residential development in Council's Department approved Lismore Growth Management Strategy (LGMS) 2015-2035.

The LGMS identifies that 4338 ha of additional rural residential land will be required between 2015-2035 and that a shortfall of 6 ha exists in the land identified within the strategy. This planning proposal will contribute to the required rural residential land and also the identified shortfall in identified land. The inconsistency is considered to be of minor significance as the proposal is generally consistent with the intent of the LGMS to focus rural residential development to existing rural residential locations that are within a 4 km radius of significant urban areas.

#### *Previous Planning Proposal for this Site*

The former Department of Planning and Environment received a planning proposal in May 2017 to rezone part of site to enable two rural residential allotments. The Department issued a Gateway determination in June 2017 to allow the rezoning of only one allotment on the western boundary (**Attachment D**).

Council received various submissions objecting to the original proposal, particularly from adjoining land owners in the existing R5 zone neighbouring the proposed lot location. As a result, Council withdrew the planning proposal and invited the proponent to submit a revised combined planning proposal and subdivision development application to enable a more holistic assessment that could help minimise any potential impacts on adjoining land owners.

The new planning proposal, which is the subject of this report, has been prepared to address the issues raised during the previous consultation and relocates the proposed rural residential lot to the south-east corner of the site.

#### *Alternative Options*

The planning proposal creates a parcel of R5 zoned land that is largely surrounded by RU1 land. One alternative option would be to zone the entire lot RU1 and only change the MLS to allow a dwelling on both allotments. This would present a less fragmented zoning approach and send a clearer message to any future owner of the smaller lot that they are located in a rural area and should expect rural activities to occur around them.

A second alternative would be to reduce the size of the proposed R5 lot to two hectares to minimise the amount of land extending into the RU1 zone. Applying a two hectare MLS is consistent with the adjoining R5 zoned land and with the current MLS applying to the R5 area of the site. Facilitating a two hectare lot would also minimise the additional land needing to be rezoned to R5 from the current 8,000m<sup>2</sup> on site.

Both of these alternatives were discussed with Council. Council objected to the proposed RU1 zoning alternative for the entire site but has raised no concerns with reducing the size of the proposed R5 lot to two hectares. A field inspection by Council staff has also concluded that two hectare lot would be sufficient to allow for prescribed buffer distances for the existing septic system and to meet current and future on-site sewage management requirements.

The proposed reduction of the R5 zone to hectares is therefore recommended.

## 4. STRATEGIC ASSESSMENT

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### 4.1 State

The proposal is not considered inconsistent with any NSW State Priorities.

### 4.2 Regional / District

#### *North Coast Regional Plan (NCRP) 2036*

Direction 11 of the NCRP relates to the protection of agricultural land and enabling the growth of the agricultural sector. The rural allotment contains some mapped regionally significant farmland at the northern end, however this area is not affected by the proposed rezoning. The proposal rationalises zoning on the site and enables the development of one additional rural residential allotment in the south-east corner of the site.

Direction 21 relates to locating new development to take advantage of existing local infrastructure. The site is currently accessed from Palmers Road and Council has determined that adequate road access can be provided to the site to facilitate the proposal.

Direction 24 relates to delivering well planned rural residential housing areas. The NCRP states that rural residential housing should be facilitated by identifying new areas in a LGMS agreed to by the Department. The planning proposal is inconsistent with this Direction as the land is not identified in the Lismore LGMS 2015-2035.

The planning proposal is therefore inconsistent with the regional plan as it is facilitating rural residential housing in a rural location not in accordance with a Department approved local strategy. While the inconsistency is considered likely to be of minor significance (as the proposal involves only one rural residential lot, adjoins an existing rural residential area and is on a lot that is already partially zoned R5) it is recommended that this consistency remain unresolved until after consultation with the Department of Planning, Industry and Environment (Primary Industries) can confirm the suitability of the proposal in terms of any potential rural land use impacts.

### 4.3 Local

#### *Lismore Growth Management Strategy (GMS) 2015-2035*

As discussed above in Section 3, while the planning proposal is inconsistent with Council's Department approved LGMS, the inconsistency is considered to be of minor significance.

### 4.4 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all applicable section 9.1 Directions except the following:

#### Direction 1.2 Rural Zones

The proposal is inconsistent with this Direction as it rezones rural land to R5 Large Lot Residential. While the inconsistency is considered likely to be of minor significance (as the proposal involves only one rural residential lot, adjoins an existing rural residential area and is on a lot that is already partially zoned R5) it is recommended that this consistency remain unresolved until after consultation with the Department of Planning, Industry and Environment (Primary Industries) can



confirm the suitability of the proposal in terms of any potential rural land use impacts..

### 1.3 Mining, Petroleum Production and Extractive Industries

The proposal is inconsistent with this Direction as it will prohibit mining and extractive industries on the land to be zoned R5. This inconsistency is considered to be of minor significance due to the small amount of land involved, as the land is not identified as contained State or regionally significant resources, and due to its location adjoining a rural residential area making any future use for mining or extractive industries extremely unlikely.

### Direction 1.5 Rural Lands

The proposal is inconsistent with this Direction as it does not consider and address matters such as the significance of agriculture and primary production to the State, promoting opportunities for investment in rural economic activities, or supporting farmers in exercising their right to farm. While the inconsistency is considered likely to be of minor significance (as the proposal involves only one rural residential lot, adjoins an existing rural residential area and is on a lot that is already partially zoned R5) it is recommended that this consistency remain unresolved until after consultation with the Department of Planning, Industry and Environment (Primary Industries) can confirm the suitability of the proposal in terms of any potential rural land use impacts.

### 3.1 Residential Zones

The proposal is inconsistent with this Direction as it rezones R5 land to rural and thereby reduces the permissible residential density. This inconsistency is considered to be of minor significance as the current R5 land is only 8,000m<sup>2</sup> and will be replaced with a more suitable and functional R5 zoning on the site.

### Direction 4.4 Planning for Bushfire Protection

This Direction is relevant as part of the land to which the proposal applies is mapped as being bush fire prone. The Direction provides that the Relevant Planning Authority must consult with the Commissioner of the NSW Rural Fire Service (RFS). Consultation with the RFS is required after a Gateway Determination is issued. Until this consultation has occurred the inconsistency of the proposal with the Direction remains unresolved.

### Direction 5.10 Implementation of Regional Plans

As discussed in Section 4.2, the proposal is considered to be inconsistent with the North Coast Regional Plan 2036 and this Direction will remain unresolved until after consultation with the Department of Planning, Industry and Environment (Primary Industries) can confirm the suitability of the proposal in terms of any potential rural land use impacts.

### **4.5 State environmental planning policies (SEPPs)**

The proposal is considered to be generally consistent with all applicable SEPPs, noting the discussion in Section 4.4 regarding consistency with section 9.1 Direction 1.5 Rural Lands (and therefore the associated SEPP Primary Production and Rural Development).

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The proposal is not expected to have any significant negative social impacts.

The previous planning proposal submitted by the applicant received several objections from neighbours. These appear to have been addressed in the new planning proposal and development application, as the proponent has garnered letters of support from neighbours surrounding the revised rezoning site. A Land Use Conflict Risk Assessment (LUCRA) has also been submitted to support the application, which considers that adequate buffers are available to the surrounding grazing land to mitigate any potential land use conflict.

### **5.2 Environmental**

An ecological assessment undertaken on the site found that the vegetation is largely modified with minimal ecological value. A cultural heritage assessment has also found that the land is unlikely to contain Aboriginal objects or sites of significance.

Areas of koala habitat, regionally significant farmland, steep gullies and watercourses are located away from the rezoning site

Council has considered potential contamination and has determined that the land is suitable for the proposed development. Further investigation into this issue can also be undertaken at the development application stage if necessary.

The allotment is partly bushfire prone and within the drinking water catchment, and consultation with the NSW Rural Fire Service and Rous County Council will be required.

The environmental impacts of the proposal are likely to be minimal and any impacts from this planning proposal can be addressed at development application stage.

### **5.3 Economic**

The proposal is not expected to have any significant economic impacts, as only one developable allotment will result from the rezoning. Minor economic benefits may arise from the construction of a future dwelling.

### **5.4 Infrastructure**

Infrastructure requirements from the rezoning are minimal. The site will have on-site water and sewerage infrastructure and it is understood that Palmers Road can be adequately upgraded as part of the subdivision to serve the development.

## **6. CONSULTATION**

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### **6.1 Community**

Council has nominated a 28-day public exhibition period. This is considered appropriate for this proposal.



## **6.2 Agencies**

Council proposes to consult with the following government agencies:

- NSW Rural Fire Service
- Department of Planning, Industry and Environment (Primary Industries); and
- Department of Planning, Industry and Environment (Environment, Energy and Science – Biodiversity and Conservation).

This is considered appropriate. In addition to the above agencies, it is recommended that Council also consult with Rous County Council.

## **7. TIME FRAME**

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The planning proposal includes a project timeline that estimates completion of the planning proposal within seven months of the issue of Gateway determination. Given the need for Council to consult with State agencies and the community, it is recommended that a nine-month time frame be granted.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has not requested to be the local plan-making authority. It is considered that the proposal relates primarily to a local issue and it is recommended that Council be authorised to be the local plan-making authority.

## **9. CONCLUSION**

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The proposal seeks to rationalise the existing split zoning on the site by facilitating a large lot rural residential allotment and a rural dwelling on 55 Palmers Road, McLeans Ridges. Associated changes to the minimum lot size and height of building development standard will be required.

It is considered that the proposal has merit subject to being amended to reduce the size of the proposed R5 Large Lot Residential Area from three hectares to two hectares consistent with the adjoining R5 lands. The planning proposal is recommended to proceed subject to conditions for the following reasons:

- the proposal will enable the removal of the current split zoning and rationalise the R5 Large Lot Residential zoning into a useable and functional size and location; and
- the proposal will provide additional rural residential development which is identified as currently having a shortfall in Council's Department approved Growth Management Strategy.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 1.3 Mining, Petroleum Production and Extractive Industries and 3.1 Residential Zones is minor and justified in accordance with the terms of the Directions; and
2. note that the inconsistency with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans remains unresolved until further justification has been provided.

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

1. The planning proposal is to be amended prior to agency or community consultation to reduce the size of the proposed R5 Large Lot Residential Area from three hectares to two hectares;
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
  - NSW Rural Fire Service;
  - Department of Planning, Industry and Environment (Primary Industries – Agriculture);
  - Department of Planning, Industry and Environment (Environment, Energy and Science – Biodiversity and Conservation); and
  - Rous County Council.
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



6/9/19

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20-9-2019

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