

Report

Subject	Planning proposal - third round of general amendments LEP 2012
TRIM Record No	BP16/110:EF14/251
Prepared by	Senior Strategic Planner
Reason	To obtain a resolution of Council to forward the general amendments planning proposal to the Minister for Planning for a Gateway determination.

Executive Summary

Periodic reviews to Lismore Local Environmental Plan 2012 (LEP 2012) are undertaken to address generally minor issues associated with the plan. This planning proposal is the third round of general amendments for the LEP. The proposal includes the following minor amendments to:

- The Land Zoning Map with consequential amendments to the Lot Size Map and/or the Height of Buildings Map;
- The Lot Size Map;
- The Heritage Map with consequential amendments to Schedule 5 – Environmental Heritage;
- The Land Use Table;
- Clause 4.2C Erection of dual occupancies (detached) in Zone RU1;
- Clause 4.2D Exceptions for minimum subdivision lot size for lot boundary adjustments in Zone RU1.

Recommendation

That:

1. Council support the planning proposal for general amendments to LEP 2012 as detailed in Attachment 1 and summarised in Table 1 of this report.
2. the planning proposal for the general amendments to LEP 2012 as detailed in Attachment 1 is forwarded to the Minister for Planning for a Gateway determination.
3. Council lodge a request with the Department of Planning and Environment seeking to exercise plan making delegations under s59 of the *EP&A Act 1979*.

Background

Regular review and amendment of LEP 2012, Council's principal land use document, is an ongoing process. The first round of general amendments to the LEP was made on 4 April 2014. The second round was made on 19 December 2014. Finalisation of this third round of general amendments is anticipated within 12 months of Council's consideration of this report. The amendments are proposed to amend mapping or instrument anomalies/errors some in response to requests from the community.

Summary of the planning proposal

The planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (DP&E) guidelines and is attached to this report (Attachment No. 1). Table 1 provides a summary of the proposed amendments and the justification associated with each proposal.

Table 1 Summary of proposed general amendments

Proposed Amendment	Rationale
Zone, Minimum Lot Size and Height of Buildings Maps	
A. Zone SP2 to Zone RU1 at 422 Whian Road, Whian Whian Land Zoning Map Amend the Land Zoning Map – Sheet LZN_004 so that Zone RU1 Primary Production applies to Lot 217 DP 755703 (422 Whian Whian Road, Whian Whian). Lot Size Map Amend the Lot Size Map – Sheet LSZ_004 so that a minimum lot size of 40ha applies to Lot 217 DP 755703 (422 Whian Whian Road, Whian Whian). Refer to Site A map	Lot 217 DP 755703 (422 Whian Whian Road, Whian Whian) was formerly owned by the Department of Education and the land is now in private ownership. The property is within Zone SP2 Infrastructure for the purpose of an <i>educational establishment</i>. The 1012m² allotment includes an old school house currently used as a private residence. The land is located directly across the road from Whian Whian Public School, an operational K-6 school situated within Lot 213 DP 755703 (421 Whian Whian Road, Whian Whian). All of the surrounding land is located within Zone RU1 Primary Production with a 40ha minimum lot size. Zone SP2 Infrastructure should be changed to Zone RU1 Primary Production for the land containing the old school house in order to regularise the current use as a <i>dwelling house</i>. A minimum lot size of 40ha should be applied to the land, consistent with the surrounding Zone RU1.
B. Zone SP2 to Zone RU1 at 572 and 582 Humpty Back Road, Pearces Creek Land Zoning Map Amend the Land Zoning Map – Sheet LZN_005 so that Zone RU1 Primary Production applies to Lot 1 DP 794891 and Lot 1 DP 118808 (572 and 582 Humpty Back Road, Pearces Creek). Lot Size Map Amend the Lot Size Map – Sheet LSZ_005 so that a minimum lot size of 40ha applies to Lot 1 DP 794891 and Lot 1 DP 118808 (572 and 582 Humpty Back Road, Pearces Creek). Refer to Site B map	Lot 1 DP 794891 & Lot 1 DP 118808 (572 and 582 Humpty Back Road, Pearces Creek) was formerly owned by the Department of Education and the land is now in private ownership. The property is within Zone SP2 Infrastructure for the purpose of an <i>educational establishment</i>. Improvements on the land include the old school and school house. Lot 1 DP 794891 has an area of 8094m² and Lot 1 DP 118808 has an area of 1485m². All of the surrounding land is located within Zone RU1 Primary Production. Zone SP2 Infrastructure should be changed to Zone RU1 Primary Production in order to regularise the current use as a <i>dwelling house</i>. Council issued correspondence in March 2015 to a prospective purchaser indicating that the two adjoining allotments, when zoned RU1, have one dwelling entitlement between them, which would be taken up by the existing school house. A minimum lot size of 40ha should be applied to the land, consistent with the surrounding Zone RU1.
C. Zone RU1 to Zone R5 in the following locations at Wyrallah: Agnes Street road reserve; 80 Breckenridge Street, Wyrallah; 2A Miriam Street, Wyrallah; and 7 McDonald Place, Wyrallah. Land Zoning Map Amend the Land Zoning Map – Sheet LZN_006A so that Zone R5 Large Lot Residential applies to Agnes Street road reserve Wyrallah; Lot 1 DP 1160243 (2A Miriam Street, Wyrallah); Lot 2 DP 1160243 (7 McDonald Place, Wyrallah); and Lot 1 DP 731234 (80 Breckenridge Street, Wyrallah).	A mapping anomaly has been identified in Wyrallah where Zone RU1 Primary Production has been applied over Agnes Street road reserve; 80 Breckenridge Street (Lot 1 DP 731234); and small portions of 2A Miriam Street and 7 McDonald Place (Lots 1 and 2 both in DP 1160243 respectively). In accordance with the DP&E LEP practice notes, the surrounding zone, in this instance Zone R5 Large Lot Residential, should apply over roads. Lots 1 and 2 both in DP 1160243 and Lot 1 DP 731234 are part of a small-scale estate contained within Zone R5 Large Lot Residential and Zone RU1 Primary Production has been applied erroneously. The application of Zone R5 Large Lot Residential in these locations is consistent with the Lismore Local Environmental Study 2010, section 2.1.3. Zone RU1 in these locations should be substituted with Zone R5 to reflect the use of the land. Consequential amendments will also be required to the

Proposed Amendment	Rationale
Lot Size Map Amend the Lot Size Map – Sheet LSZ_006 so that 5000m² minimum lot size applies to Agnes Street road reserve Wyrallah; Lot 1 DP 1160243 (2A Miriam Street, Wyrallah); Lot 2 DP 1160243 (7 McDonald Place, Wyrallah); and Lot 1 DP 731234 (80 Breckenridge Street, Wyrallah). Height Of Buildings Map Amend the Height Of Buildings Map – Sheet HOB_006 so that an 8.5m maximum building height applies to Lot 1 DP (731234 80 Breckenridge Street, Wyrallah). Refer to Site C Map	Minimum Lot Size Map and the Height of Buildings Map with the application of 5000m² and 8.5m respectively.
D. Zone RU1 to Zone RU5 at 2 and part 4 Blue Knob Road, Nimbin - Nimbin Bush Theatre/Candle Factory Land Zoning Map Amend the Land Zoning Map – Sheet LZN_004 so that Zone RU5 Village applies to SP 30107 (2 Blue Knob Road, Nimbin) and part Lot 11 DP 1182866 (part 4 Blue Knob Road, Nimbin). Lot Size Map Amend the Lot Size Map – Sheet LSZ_004 so that a 1ha minimum lot size applies to SP 30107 (2 Blue Knob Road, Nimbin) and part Lot 11 DP 1182866 (part 4 Blue Knob Road, Nimbin). Height Of Buildings Map Amend the Height Of Buildings Map – Sheet HOB_004 so that an 8.5m maximum building height applies to SP 30107 (2 Blue Knob Road, Nimbin) and part Lot 11 DP 1182866 (part 4 Blue Knob Road, Nimbin). Refer to Site D Map	2 Blue Knob Road, Nimbin (SP 30107) and part 4 Blue Knob Road, Nimbin (Part Lot 11 DP 1182866) is located within Zone RU1 Primary Production, adjacent the northern bank of Mulgum Creek. SP 30107 has an area of 8423m² and Part Lot 11 DP 1182866 has an area of 950m². Zone RU5 Village is located adjacent to the southern bank of Mulgum Creek. The land and the adjacent central village area are located within the Nimbin Heritage Conservation Area. The land is not within the LEP flood planning area. The land is bush fire prone. The old butter factory is located on SP 30107 and part of the unsealed car park is located on the adjoining Part Lot 11 DP 1182866. Part Lot 11 is burdened by a right of carriageway. The site was originally operated by the Nimbin Co-operative Dairy Company. Norco amalgamated with the Nimbin Co-op in 1921 and commenced operations in this building in 1932. The factory closed in 1950 (Lismore Heritage Study, Ref No. 10009, 1995). M. Scott (SEE DA 2015/340) states, <i>“It is thought that the building was used as a transport terminal and for pet food manufacture prior to its purchase in 1976-77 by the Bush Factory Co-operative.”</i> Development consent history follows: • 1978/46: live theatre; radio and sound recording studio; printing and photographic reproductions; manufacture of solar water heaters, digesters and minor farm equipment; and squash courts. • 83/2134: refused proposed strata subdivision due to inconsistencies with DA 1978/46. • 84/3084: Strata subdivision with the following uses – recording studio; arts studio; live theatre; local produce packing store; video and film arts studio; applied crafts workshop; and caretakers residence. Current uses include: Nimbin Candle Factory; Nimbin Bush Theatre and Café; Bringabong smoking accessories. At the time of writing Council was assessing a development application for a shop on the site. It is recommended that the subject land is amended to the RU5 Village zone. Justification for a change of zone from RU1 Primary Production to RU5 Village includes:

Proposed Amendment	Rationale
E. Zone R2 to Zone IN2 at 113 Phyllis Street, South Lismore Land Zoning Map Amend the Land Zoning Map – Sheet LZN_005AA so that Zone IN2 Light Industrial applies to Lot 13 Section 2 DP 448737 (113 Phyllis Street, South Lismore). Height Of Buildings Map Amend the Height Of Buildings Map – Sheet HOB_005AA by removing the maximum building height development standard that applies to Lot 13 Section 2 DP 448737 (113 Phyllis Street, South Lismore). Refer to Site E Map	• The historical and current land uses are more consistent with Zone RU5 Village than Zone RU1 Primary Production; • The land is serviced with reticulated water and sewer; • LEP clause 5.3 <i>Development near zone boundaries</i> can be used for only part of the site to permit land uses that are permissible in the nearby Zone RU5 Village. • Current land uses are permissible in Zone RU5. <i>Light industries</i> and <i>entertainment facilities</i> are prohibited in Zone RU1, therefore such land uses would rely on the existing use provisions of the EP&A Act 1979. 113 Phyllis Street South Lismore (Lot 13 Section 2 DP 448737) and 120 Casino Street South Lismore (Lot 12 Section 2 DP 448737) are two adjacent lots in the same ownership. The landowner has requested the use of Zone IN2 Light Industrial for 113 Phyllis Street South Lismore. The use of this zone would facilitate the expansion of the existing communications business located at 120 Casino Street which is within Zone IN2 Light Industrial. Nearby land uses include a mix a residential, light industrial and industrial. Similarly, there is an amalgam of land use zones including Zone R2 Low Density Residential, Zone IN1 General Industrial, Zone IN2 Light Industrial and Zone RE1 Public Recreation. A description of the two adjoining allotments follows: 113 Phyllis Street (Lot 13) (subject lot) description: • Vacant land • 1518m² in area • Within Zone R2 Low Density Residential • Minimum lot size 1000m² • Adjoining Zone IN2 Light Industrial and Zone R2 Low Density Residential • Flood fringe 120 Casino Street (Lot 12) (adjacent lot) description • Includes a building used for the manufacture and sale of communication equipment • 1518m² in area • Within Zone IN2 Light Industrial • Minimum lot size 1000m² • Adjoining Zone IN2 Light Industrial, Zone R2 Low Density Residential and Zone RE1 Public Recreation • Flood fringe Future development of the site for light industrial use as opposed to residential would be favourable due to the flood risk associated with the location. Both 113 Phyllis Street and 120 Casino Street are within a flood fringe area. This location in South Lismore can be isolated in flood events providing a rational argument for favouring industrial development. The maximum building height development standard has not been applied for land within industrial zones. The inclusion of 113 Phyllis Street in Zone IN2 would require the consequential removal of the 9m maximum building height that currently applies to the land. Note. Lot 13 could currently be developed for light industrial use with development consent pursuant to LEP clause 5.3 <i>Development near zone boundaries</i>.

Proposed Amendment	Rationale
F. Zone RU2 to Zone B6 at part 6 Bruxner Highway, South Lismore Land Zoning Map Amend the Land Zoning Map – Sheet LZN_006AA so that Zone B6 Enterprise Corridor applies to part Lot 2 DP 1206024 (part 6 Bruxner Highway, South Lismore). Lot Size Map Amend the Lot Size Map – Sheet LSZ_006AA so that no minimum lot size applies to part Lot 2 DP 1206024 (part 6 Bruxner Highway, South Lismore). Refer to Site F map	Development consent 5.2014.320.1 was issued on 23/12/14 for a three lot subdivision at 2 Bruxner Highway, South Lismore. The subject lot, located between Quayside Motors and Bunnings, is consistent with the approved subdivision certificate (13.2014.320.2) issued for the subdivision of 6 Bruxner Highway, South Lismore (Lot 2 DP 1206024) on 5/2/16. The subject lot contains both Zone B6 Enterprise Corridor and Zone RU2 Rural Landscape. The portion of zone RU2 was well under the minimum lot size of 40ha. Clause 5.3 – <i>Development near zone boundaries</i> was used to enable the consent. Development within the RU2 portion of the approved subject lot consists of a private access road that services the rear of Bunnings and Masters. The existing development in the Zone RU2 portion of this lot is more consistent with the objectives of Zone B6.
G. Zone RU1 to Zone R1 at part 116 and 79C Fischer Street, Goonellabah Land Zoning Map Amend the Land Zoning Map – Sheet LZN_006AB so that Zone R1 General Residential applies to part Lot 3 DP 883865 (part 116 Fischer Street, Goonellabah) and Lot 3 DP 823632 (79C Fischer Street, Goonellabah). Lot Size Map Amend the Lot Size Map – Sheet LSZ_006AB so that a minimum lot size of 400m² applies to part Lot 3 DP 883865 (part 116 Fischer Street, Goonellabah) and Lot 3 DP 823632 (79C Fischer Street, Goonellabah). Height Of Buildings Map Amend the Height Of Buildings Map – Sheet HOB_006AB so that a maximum building height of 8.5m applies to part Lot 3 DP 883865 (part 116 Fischer Street, Goonellabah) and Lot 3 DP 823632 (79C Fischer Street, Goonellabah). Refer to Site G map	Development consent was issued for 116 Fischer Street, Goonellabah (Lot 3 DP 883865) and 79C Fischer Street, Goonellabah (Lot 3 DP 823632) on 31/3/15 for: staged integrated multi-dwelling development comprising 218 dwellings (9 x 1 bedroom and 209 x 2 bedroom), community facilities (vegetable gardens, BBQ facilities, swimming pool, children's playground and walking trails), infrastructure civil works (roads, water, sewer, drainage, bulk earthworks and retaining walls), tree removal, landscaping, compensatory revegetation and strata subdivision. LEP clause 5.3 Development near zone boundaries was used to enable the approval of some of the multi dwelling housing up to 50m within the adjoining Zone RU1 Primary Production. For all intents and purposes this part of the site is now a residential zone. The extension of Zone R1 so that it includes all of the dwellings is a logical approach. The approval pathway for minor alterations or modifications to these dwellings will be facilitated without the use of clause 5.3.

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H. Minimum lot size at Boatharbour Nature Reserve, Bangalow Road, Bexhill Lot Size Map Amend the Lot Size Map – Sheet LSZ_005AB so that a minimum lot size development standard does not apply to Lot 1 DP 806694 (634A Bangalow Road, Bexhill); Lot 381 DP 725859 (624 Bangalow Road, Bexhill); and Lot 193 DP 755686 (623 Bangalow Road, Bexhill). Refer to Site H Map	A mapping error has been identified in the Boatharbour Nature Reserve. The reserve incorporates the following allotments: 634A Bangalow Road, Bexhill (Lot 1 DP 806694); 624 Bangalow Road, Bexhill (Lot 381 DP 725859); 623 Bangalow Road, Bexhill (Lot 193 DP 755686); and 560 Bangalow Road, Richmond Hill (Lot 1 DP 125322). All four of these allotments are within Zone E1 National Parks and Nature Reserves. A minimum lot size does not apply to land within Zone E1. In this instance, a minimum lot size has been applied erroneously to Lot 1 DP 806694; Lot 381 DP 725859; and Lot 193 DP 755686. This anomaly can be rectified with the removal of the minimum of size from these allotments.																																										
I. Minimum lot size in rail corridor Lot Size Map Amend the Lot Size Map – Sheets LSZ_002; LSZ_005; and LSZ_005AB so that a 40ha minimum lot size applies to Zone RU1 Primary Production within the rail corridor. Amend the Lot Size Map Sheet LSZ_005AA so that the following minimum lot sizes apply to land within the rail corridor: 40ha for Zone RU1 and Zone RU2; 1500m² for Zone IN1; 1200m² for Zone R2. Refer to Site I map	Council resolved to adopt the then Draft LEP 2012 at the ordinary meeting of 31 May 2012, including the use of Zone SP2 Infrastructure for the railway corridor. A minimum lot size was not applied within Zone SP2 across the Local Government Area. LEP 2012 was made on 22 February 2013 incorporating changes by the then Department of Planning and Infrastructure (DP&I), including the removal of the use of Zone SP2 for the rail corridor and replacement with the adjoining zone. The DP&I erroneously excluded a minimum lot size for the zones used along the rail corridor.																																										
J. Zone B6 to Zone IN1 at part 161 and 29 – 77 Krauss Avenue, Loftville Land Zoning Map Amend the Land Zoning Map – Sheet LZN_006AA so that Zone IN1 General Industrial replaces Zone B6 Enterprise Corridor at part Lot 9 and Lots 1, 3, 4, 5, 6, 7, 11 and 12 all in DP 1093668; Lots 21 and 22 in DP 1133005; and Lots 81 and 82 in DP 1214371 (part 161 and 29 – 77 Krauss Avenue, Loftville); and the adjacent Krauss Avenue and Bruxner Highway road reserve. Lot Size Map Amend the Lot Size Map – Sheet LSZ_006AA so that a minimum lot size of 1500m² applies to Part Lot 9 and Lots 1, 3, 4, 5, 6, 7, 11 and 12	The land that forms the subject of this item of the planning proposal is located in Krauss Avenue, Loftville. The street number and corresponding legal description are provided below: <table><tr><th>Krauss Ave Street No.</th><th>Lot</th><th>DP</th></tr><tr><td>161 (part)</td><td>9 (part)</td><td>1093668</td></tr><tr><td>29</td><td>1</td><td>1093668</td></tr><tr><td>35</td><td>21</td><td>1133005</td></tr><tr><td>39</td><td>22</td><td>1133005</td></tr><tr><td>41</td><td>11</td><td>1093668</td></tr><tr><td>43</td><td>3</td><td>1093668</td></tr><tr><td>49</td><td>4</td><td>1093668</td></tr><tr><td>53</td><td>5</td><td>1093668</td></tr><tr><td>57</td><td>12</td><td>1093668</td></tr><tr><td>61</td><td>6</td><td>1093668</td></tr><tr><td>67</td><td>7</td><td>1093668</td></tr><tr><td>73</td><td>81</td><td>1214371</td></tr><tr><td>77</td><td>82</td><td>1214371</td></tr></table> The subject strip of land is located adjacent to the East of Lismore Airport within Zone B6 Enterprise Corridor. The land was previously within Zone No 4(a) (Industrial Zone) under LEP 2000. The area consists of twelve allotments and one part lot, two lots of which are 4000m² drainage reserves. The remaining ten lots range in area from 6000m² to 30000m².	Krauss Ave Street No.	Lot	DP	161 (part)	9 (part)	1093668	29	1	1093668	35	21	1133005	39	22	1133005	41	11	1093668	43	3	1093668	49	4	1093668	53	5	1093668	57	12	1093668	61	6	1093668	67	7	1093668	73	81	1214371	77	82	1214371
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Proposed Amendment	Rationale
all in DP 1093668; Lots 21 and 22 in DP 1133005; and Lots 81 and 82 in DP 1214371 (part 161 and 29 – 77 Krauss Avenue, Loftville); and the adjacent Krauss Avenue and Bruxner Highway road reserve. Refer to Site J map	Existing or approved and yet to be constructed development includes industrial, warehouse or distribution centre, RMS heavy vehicle inspection centre, and emergency services facility. Interest has also been expressed in bulky goods premises, vehicle sales or hire premises, and rural industries. Existing or approved and yet to be constructed development includes industrial, warehouse or distribution centre, RMS heavy vehicle inspection centre, and emergency services facility. Interest has also been expressed in bulky goods premises and vehicle sales or hire premises. Interest has also been expressed in uses that are defined as rural industries, which are not permitted in the B6 zone. Section 2.2.4 of the Lismore Local Environmental Study 2010 (LES) justified the use of Zone B6 in this “gateway location” as: <i>The zone offers the opportunity to expand development, increase employment and create a far more dynamic urban environment. The FNCRS encourages Councils to identify opportunities for bulky goods style retailing in appropriate locations. The B6 Enterprise Corridor zone provides the opportunity to allow large scale commercial development on a main road, within close proximity to the CBD and adjoining an industrial precinct. This will encourage bulky goods retailing in a restricted location and ensure that the primary retail role of the CBD is not jeopardised.</i> At that time, bulky goods premises were not permitted in the industry zones in accordance with DP&E requirements. Council resolved to permit bulky goods premises in Zones IN1 and IN2 in the final stages of preparation of the then draft LEP 2012. It is now proposed to replace the B6 zone with IN1 General Industrial in this location as it permits bulky goods premises along with all of the existing or approved and yet to be constructed development, rural industries and other industrial land uses. The existence of a 30m wide vegetated nature strip along Krauss Avenue in this location provides potential for screening of developments with limited visual appeal.
K. Zone IN1 to Zone RE1 and Zone RE1 to Zone IN1 at 16 Taylor Street, South Lismore - Riverview Park Land Zoning Map Amend the Land Zoning Map – Sheet LZN_005AA for part Lot 1 DP 122285 (part 16 Taylor Street, South Lismore) so that Zone RE1 Public Recreation applies to land classified as Community and Zone IN1 General Industrial applies to land classified as Operational. Lot Size Map Amend the Lot Size Map – Sheet LSZ_005AA for part Lot 1 DP 122285 (part 16 Taylor Street, South Lismore) so that a 1500m² minimum lot size applies to all land	The subject land, part 16 Taylor Street, South Lismore (part Lot 1 DP 122285 – the north eastern section of Riverview Park) was one of several lots that were reclassified and/or rezoned as part of LEP 2012 Amendment No. 8. A partial reclassification from Community to Operational and Operational to Community was undertaken to more accurately reflect an existing encroachment onto public land. Land that was reclassified from Community to Operational was changed from Zone RE1 to Zone IN1 with the application of a 1500m² minimum lot size. Land that was reclassified from Operational to Community was changed from Zone IN1 to Zone RE1. It has become apparent that a mapping error was not detected prior to the finalisation of the plan making. The new zone boundaries do not entirely match up with the reclassification areas. A similar error was also detected with the minimum lot size. The simplest way to rectify the issue is to amend to the zone boundaries to match the classification of the land i.e. apply Zone IN1 to Operational Land and Zone RE1 to Community Land. The amendment will enable Council to enter into a lease/licence/purchase agreement for the existing encroachment by Hernes Freight Services onto public land. Any further adjustments to accommodate operational needs of the business would require another planning proposal, the cost of which would be borne by

Proposed Amendment	Rationale
within Zone IN1 General Industrial. Refer to Site K map	Hernes Freight Services. It is acknowledged that original plans presented at the LEP Amendment No 8 Council workshop of 30/7/13 included slightly more Zone IN1 land in the north west portion of the land used by the transport company.
Heritage Map and Schedule 5 Environmental Heritage	
L. 9 Club Lane, Lismore Heritage Map Amend the Heritage Map – Sheet HER_005AA so that item I41 is consistent with the realigned boundary of 9 Club Lane, Lismore that is now legally described as Lot 2 DP 1201176. Refer to Site L map Schedule 5 Environmental Heritage, Part 1 Environmental Heritage Omit the property description 'Lot 2 DP 1114333' for Item No. I41 (The Lismore Club) and insert in its place 'Lot 2 DP 1201176'.	Five reconfigured allotments were created in the Lismore CBD as a result of a boundary adjustment with the registration of deposited plan 1201176. The boundary adjustment was required as a result of development associated with levee repairs adjacent to 9 Club Lane Lismore (Lot 2 DP 1201176). The boundary adjustment involved 5 contiguous allotments, including 9 Club Lane. This allotment is listed in LEP Schedule 5 Environmental Heritage (Item I41) and appears in the LEP Heritage Map. The legal description of the 9 Club Lane in Schedule 5 needs to change from Lot 2 DP 1114333 to Lot 2 DP 1201176. The Heritage Map requires amendment to reflect the current boundaries of the land. The proposed updated entry in the Heritage Map involves a reduction in area as the rear portion of the building was demolished to accommodate the realigned levee. The updated entry will cover the entire allotment within which is contained the entire heritage item.
M. 511 and 563 Tuckurimba Road, East Coraki Heritage Map Amend the Heritage Map – Sheet HER_006 so that item I19 is omitted from Lot 1 DP 798966 (511 Tuckurimba Road, East Coraki) and inserted on Lot 9 DP 755699 (563 Tuckurimba Road, East Coraki). Refer to site M map Schedule 5 Environmental Heritage, Part 1 Environmental Heritage Omit the address '511 Tuckurimba Road' and omit the property description 'Lot 1 DP 798966' for Item I19 and insert the address '563 Tuckurimba Road' and property description 'Lot 9 DP755699'.	Item I19 of Schedule 5 Environmental Heritage lists a house at 511 Tuckurimba Road, East Coraki with a property description Lot 1 DP 798966. It has become apparent that this address has been erroneously listed, as the house of significance exists on the adjacent allotment at 563 Tuckurimba Road, East Coraki with a property description of Lot 9 DP 755699. The correction of this error will require an amendment to Schedule 5 Environmental Heritage and the Heritage Map.
Land Use Table	
N. Hardware and building supplies to be included in the land use table for the RU5 Village zone as permitted with consent. Omit 'hardware and building supplies' from item 4 (Prohibited) in	The land use <i>hardware and building supplies</i> was one of the numerous new terms introduced into the Standard Instrument LEP prior to the finalisation of the LEP 2012. <i>Hardware and building supplies</i> have been prohibited in Zone RU5 Village since LEP 2012 has been in force. Upon review, this land use is considered to be compatible with the village zone objectives.

Proposed Amendment	Rationale
Zone RU5 Village.	Amendment of the land use table to permit <i>hardware and building supplies</i> is consistent with the Far North Coast Regional Strategy and the relevant LEP planning circulars.
O. Home-based child care Omit 'home-based child care' from item 2 (Permitted without consent) in Zones RU1, RU2, RU5, R1, R2, R5, B1, B2, B3, B4, B6, IN1 and IN2. Insert 'home-based child care' in item 3 (Permitted with consent) in Zones RU1, RU2, RU5, R2 and R5.	<i>Home-based child care</i> is Exempt Development under SEPP (Exempt and Complying Development Codes) 2008 if it is not carried out on bush fire prone land. <i>Home-based child care</i> is development that is permitted without consent under LEP 2012 in the zones listed below without any requirements regarding bush fire prone land. • RU1 Primary Production • RU2 Rural Landscape • RU5 Village • R1 General Residential • R2 Low Density Residential • R5 Large Lot Residential • B1 Neighbourhood Centre • B2 Local Centre • B3 Commercial Core • B4 Mixed Use • B6 Enterprise Corridor • IN1 General Industrial • IN2 Light Industrial The land use table should be amended so that <i>home-based child care</i> requires development consent. This will require the lodgment of a development application for home based child care only on bush fire prone land enabling a merit based assessment of bush fire risk for this land use. The development of <i>home-based child care</i> can still be undertaken in accordance with the Exempt Development provisions of SEPP (Exempt and Complying Development Codes) 2008. The amendment would require the <i>omission of home-based child care</i> from item 2 (Permitted without consent) for the aforementioned zones and the insertion of this land use in item 3 (Permitted with consent) for the closed zones (RU1, RU2, RU5, R2 and R5).
P. Vehicle repair stations Omit 'vehicle repair stations' from item 4 (Prohibited) in Zone B1 Neighbourhood Centre, Zone B2 Local Centre and Zone B3 Commercial Core.	It has become apparent that demand exists for <i>vehicle repair stations</i> within Zone B3 Commercial Core, Zone B2 Local Centre and Zone B1 Neighbourhood Centre. <i>Vehicle repair stations</i> are currently permissible with consent in the following zones: RU2 Rural Landscape; RU5 Village; B6 Enterprise Corridor; IN1 General Industrial; and IN2 Light Industrial. <i>Vehicle repair station means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicle or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.</i> Justification for the permissibility of this land use in these zones includes: • <i>Car repair stations</i> under LEP 2000 were permissible with consent in all business zones; • Opportunity exists for this land use in some existing premises in peripheral areas of Zone B3 Commercial Core; • The location of <i>vehicle repair stations</i> in business zones will enable people to drop off their car for mechanical repairs and utilise nearby commercial premises. • <i>Vehicle repair stations</i> are compatible with several other commercial land uses.

Proposed Amendment	Rationale
Principle Development Standards	
Q. Clause 4.2C Erection of dual occupancies (detached) in Zone RU1 Amend clause <i>4.2C Erection of dual occupancies (detached) in Zone RU1</i> as follows: Omit objective (b) <i>(b) to ensure development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land.</i> Insert objectives (b) and (c) in its place <i>(b) to protect the primary production potential of the land,</i> <i>(c) to ensure development is of a scale and nature that is compatible with the rural character and environmental capabilities of the land.</i>	LEP Amendment No. 5 was made on 25/10/13 and included, among other things, the new clause 4.2C Erection of dual occupancies (detached) in RU1 Primary Production zone. Staff have reviewed clause 4.2C as introduced by Amendment No. 5 and are satisfied that the provisions adequately control the land use. However, minor amendments to the clause objectives are recommended to reinforce the importance of maintaining agricultural potential of the land. This amendment could be achieved by removing the term “primary production potential” from objective b and using the term in an additional standalone objective for supplementary emphasis. The existing clause 4.2C is provided below: 4.2C Erection of dual occupancies (detached) in Zone RU1 <i>(1) The objectives of this clause are as follows:</i> <i>(a) to provide alternate accommodation for rural families and workers,</i> <i>(b) to ensure development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land.</i> <i>(2) Development consent must not be granted to development for the purpose of a dual occupancy (detached) on land in Zone RU1 Primary Production unless the consent authority is satisfied that:</i> <i>(a) the development will not impair the use of the land for agriculture or rural industries, and</i> <i>(b) each dwelling will use the same vehicular access to and from a public road, and</i> <i>(c) each dwelling will be situated within 100 metres of each other, and</i> <i>(d) the land is physically suitable for the development, and</i> <i>(e) the land is capable of accommodating the on-site disposal and management of sewage for the development, and</i> <i>(f) the development will not have an adverse impact on the scenic amenity or character of the rural environment.</i> The proposed amendment is to remove existing objective (b) and insert new objectives (b) and (c) provided below: <i>(b) to protect the primary production potential of the land</i> <i>(c) to ensure development is of a scale and nature that is compatible with the rural character and environmental capabilities of the land.</i>
R. Clause 4.2D Exceptions to minimum subdivision lot size for lot boundary adjustments in Zone RU1 Omit clause <i>4.2D Exceptions to minimum subdivision lot size for lot boundary adjustments in Zone RU1</i> Replace with clause <i>4.2D Boundary adjustments of land in certain rural, residential and environmental protection zones.</i> <i>(1) The objective of this clause is to facilitate boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size shown on the <u>Lot</u></i>	LEP Amendment No. 4, among other things, introduced clause 4.2D Exceptions to minimum subdivision lot size for boundary adjustments in Zone RU1. Flexibility of the subdivision provisions in rural areas is a significant issue as the majority of rural lots within the Local Government Area (LGA) are below the minimum lot standard. In many instances boundary adjustments have the potential to provide positive planning outcomes. The clause does not allow a boundary adjustment that will result in the creation of an additional lot or dwelling entitlement. A copy of clause 4.2D is provided below: 4.2D Exceptions to minimum subdivision lot size for lot boundary adjustments in Zone RU1 <i>(1) The objective of this clause is to permit lot boundary adjustments in Zone RU1 Primary Production that will provide improved agricultural outcomes</i>

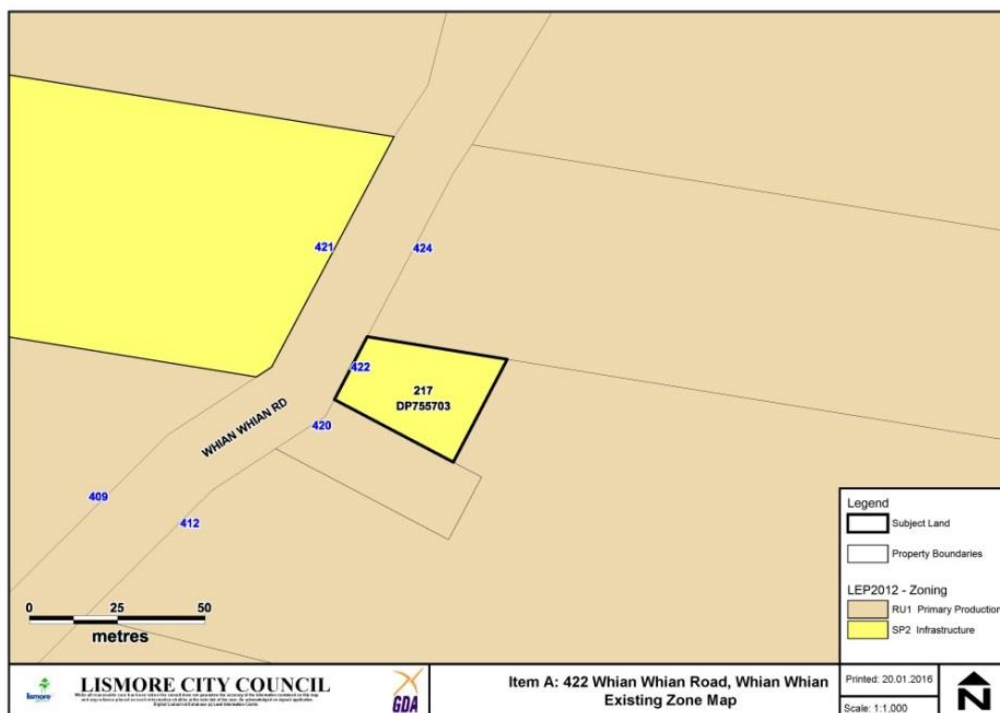
Proposed Amendment	Rationale
<i>Size Map</i> in relation to that land but the objectives of the relevant zone can be achieved. (2) This clause applies to land in any of the following zones: (a) Zone RU1 Primary Production, (b) Zone RU2 Rural Landscape, (c) Zone R5 Large Lot Residential, (d) Zone E2 Environmental Conservation, (e) Zone E3 Environmental Management. (3) Despite clause 4.1, development consent may be granted to subdivide land by way of a boundary adjustment between adjoining lots where one or more resultant lots do not meet the minimum lot size shown on the <u>Lot Size Map</u> in relation to that land if the consent authority is satisfied that: (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and (c) the potential for land use conflict will not be increased as a result of the subdivision, and (d) the subdivision will not result in any increased bush fire risk to existing buildings, and (e) if the land is in Zone RU1 Primary Production or Zone RU2 Rural Landscape, the agricultural viability of the land will not be adversely affected as a result of the subdivision. (4) Before granting development consent to development to which this clause applies, the consent authority must be satisfied that the subdivision will not compromise the continued protection and long-term maintenance of any land in Zone E2 Environmental Conservation, Zone E3 Environmental Management.	without creating additional opportunities for the erection of dwellings. (2) Development consent may be granted for the subdivision of land in Zone RU1 Primary Production to create a lot of a size that is less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land if the consent authority is satisfied that: (a) the subdivision will not result in the creation of an additional lot or the opportunity for additional dwelling entitlements on any of the lots, and (b) the subdivision will not adversely impact on the long-term agricultural production potential of the lots and the surrounding locality. Rural boundary adjustments under LEP 2012 involving one or more undersized lots are only possible if the allotments are contained entirely within Zone RU1 Primary Production. It is generally not possible to adjust boundaries of undersized split zoned rural lots. Nor is it possible to adjust boundaries between undersized Zone RU1 lots and lots within Zones RU2, R5, E2 or E3. The restriction of boundary adjustments for existing undersized lots involving these zones was an unintended consequence when clause 4.2D was originally drafted. Justification for the amendment of the boundary adjustment provisions to include Zones RU2, R5, E2 and E3 are provided below: • Boundary adjustments for existing undersized lots in all zones was possible under LEP 2000; • Numerous other Standard Instrument LEPs enable boundary adjustments for undersized lots in all zones previously excluded by clause 4.6(6); • There is no rational argument to exclude these zones from a merit based assessment for boundary adjustments; • Zone E2 and E3 are part of a suite of zones included in draft LEP Amendment North Lismore Plateau. Zone E3 is included in the adopted Trinity Drive Precinct planning proposal; • Boundary adjustments for undersized split zoned lots with both Zone RU1 and Zone R5 under LEP 2012 are currently not possible; • The creation of more logical property boundaries; • The diminution of land use conflict; • Provision of more appropriate legal points of access; • Enhanced bushfire safety; • Enhanced ecological outcomes.

Maps

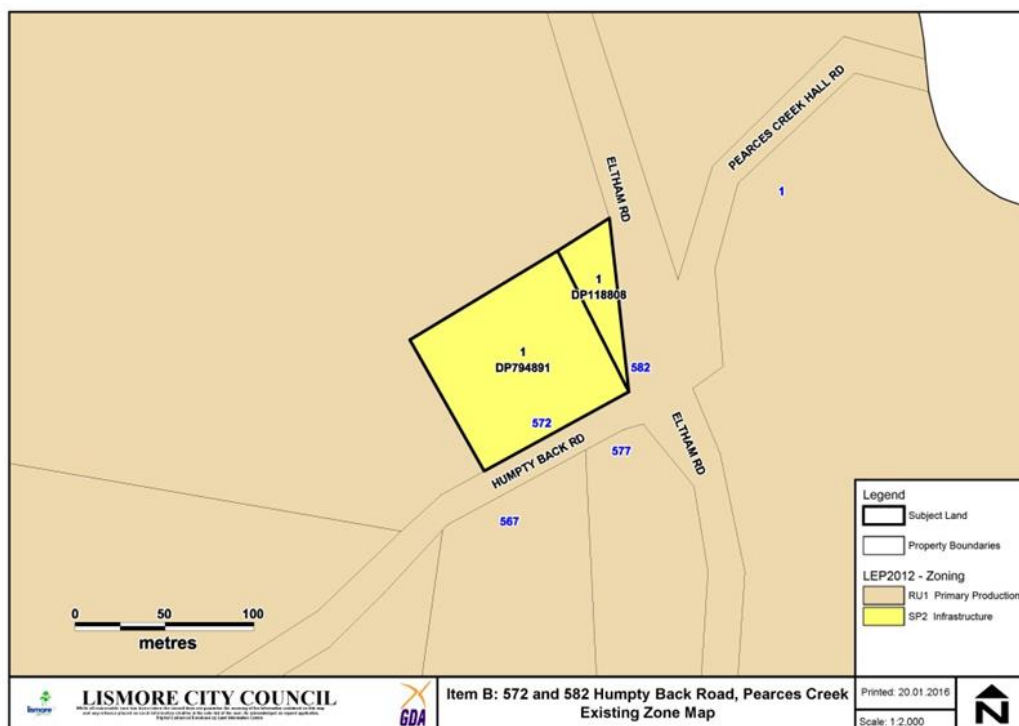
The planning proposal involves, among other things, mapping changes associated with 13 sites. The maps proposed for amendment include the: Land Zoning Map; Lot Size Map; Height of Buildings Map; and Heritage Map. Attachment 1 to this report provides aerial location maps and the relevant existing and proposed maps associated with each site. The maps provided below are selected to indicate the key

issues. Existing Land Zoning Maps only are provided for sites proposed for rezoning with consequential amendments to Lot Size and/or Height of Building Maps. Aerial Maps are provided for the two sites proposed only for amendments to the Minimum Lot Size Map. Existing Heritage Maps are provided for the two heritage listed sites.

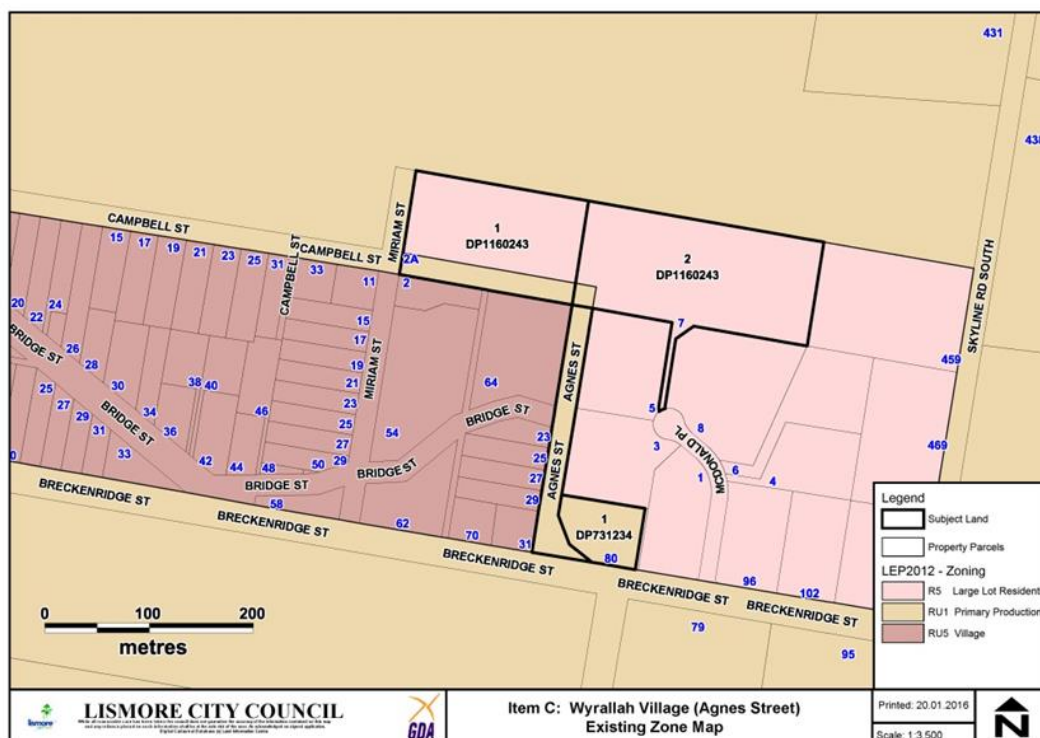
Site A - 422 Whian Whian Road, Whian Whian - existing zone map



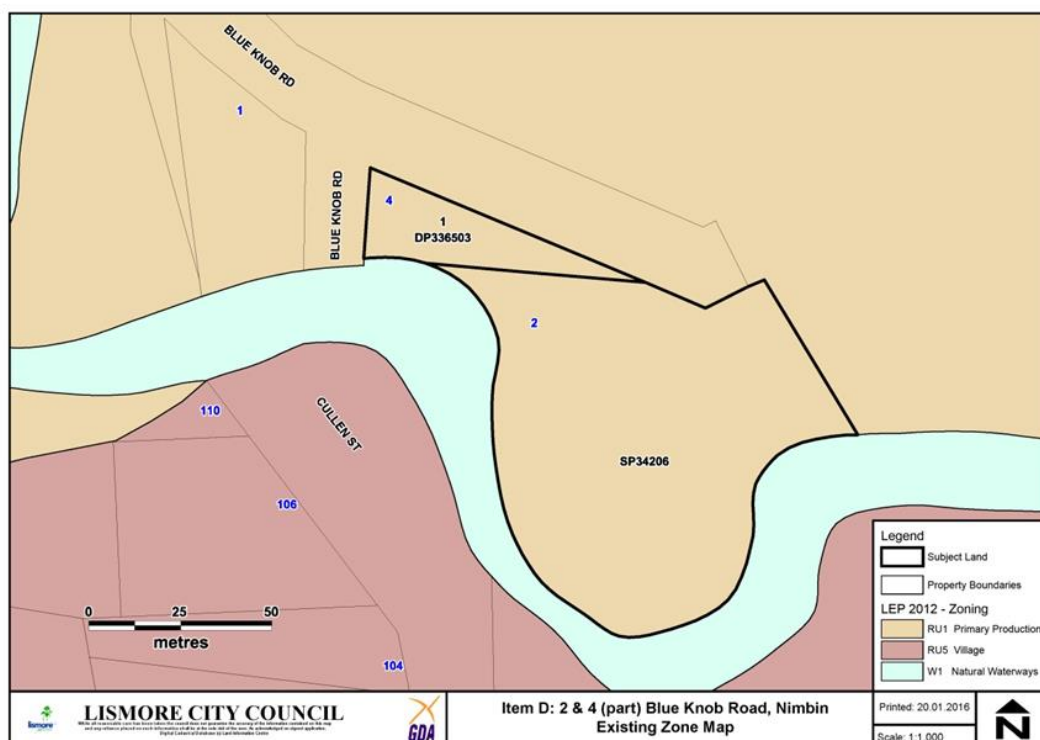
Site B - 572 and 582 Humpty Back Road, Pearces Creek - existing zone map



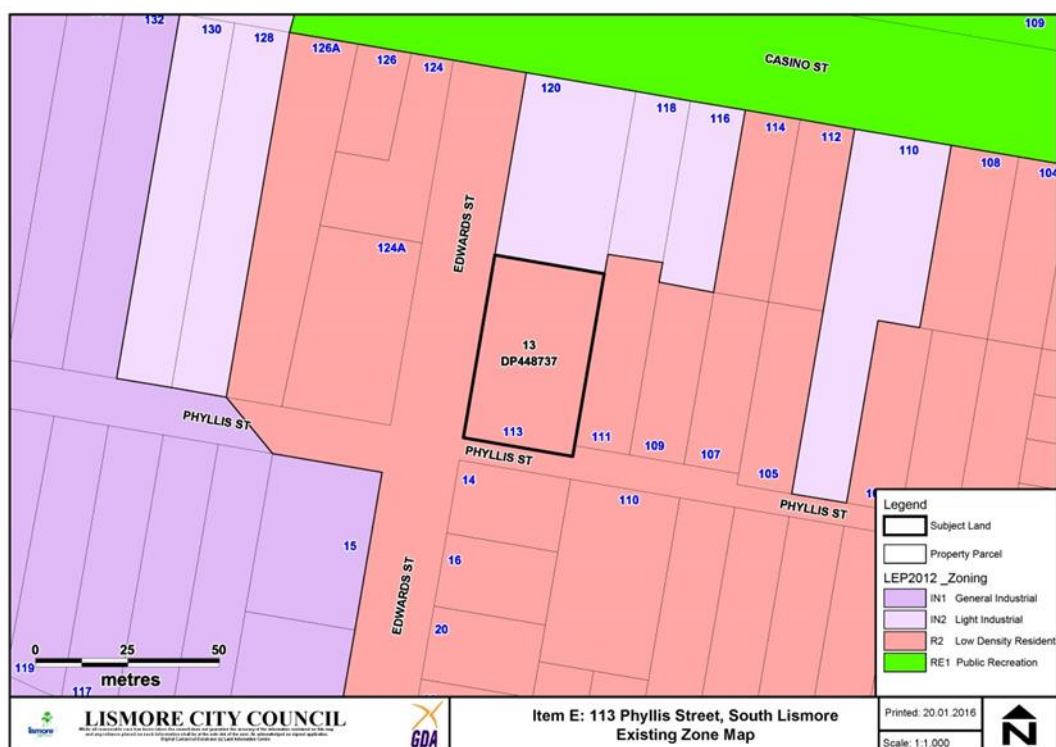
Site C – Wyrallah Village - existing zone map



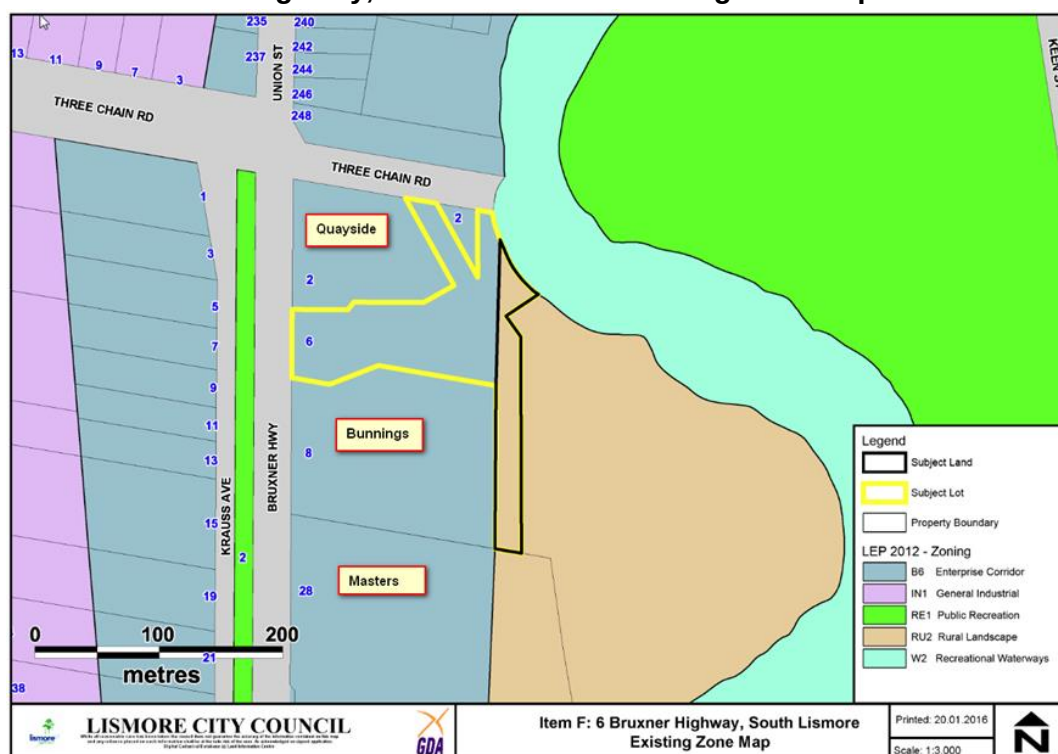
Site D – Nimbin Bush Theatre - existing zone map



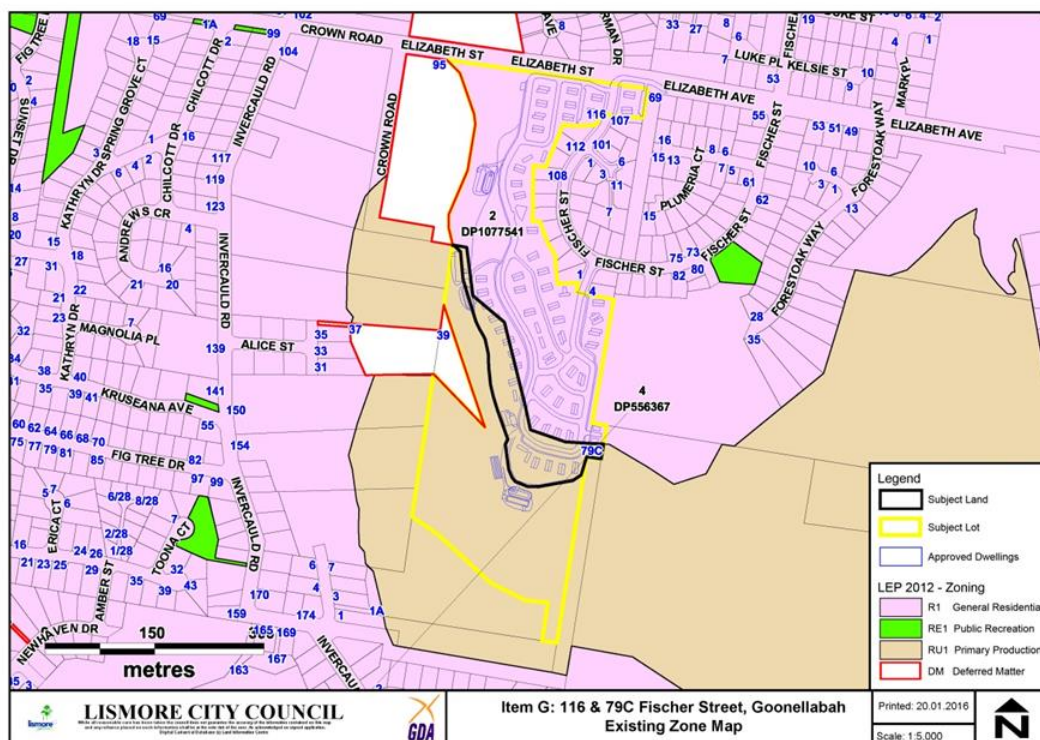
Site E – 113 Phyllis Street, South Lismore - existing zone map



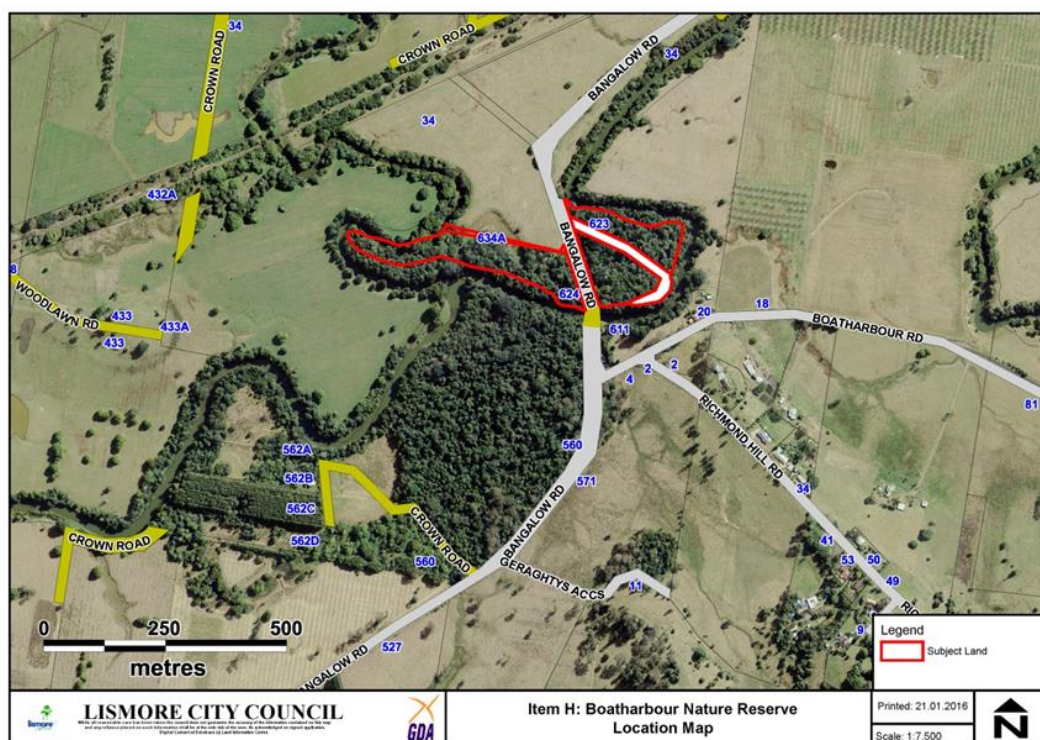
Site F – 6 Bruxner Highway, South Lismore – existing zone map



Site G – 116 & 79C Fischer Street, Goonellabah – existing zone map

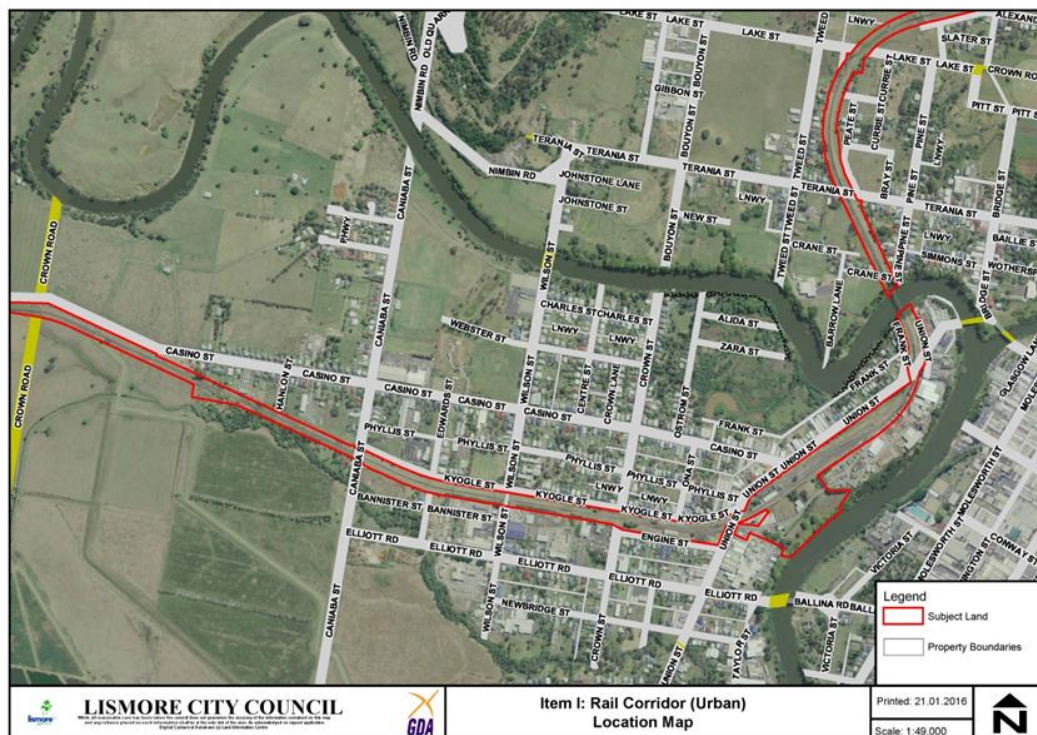


Site H – Boatharbour Nature Reserve – aerial location map

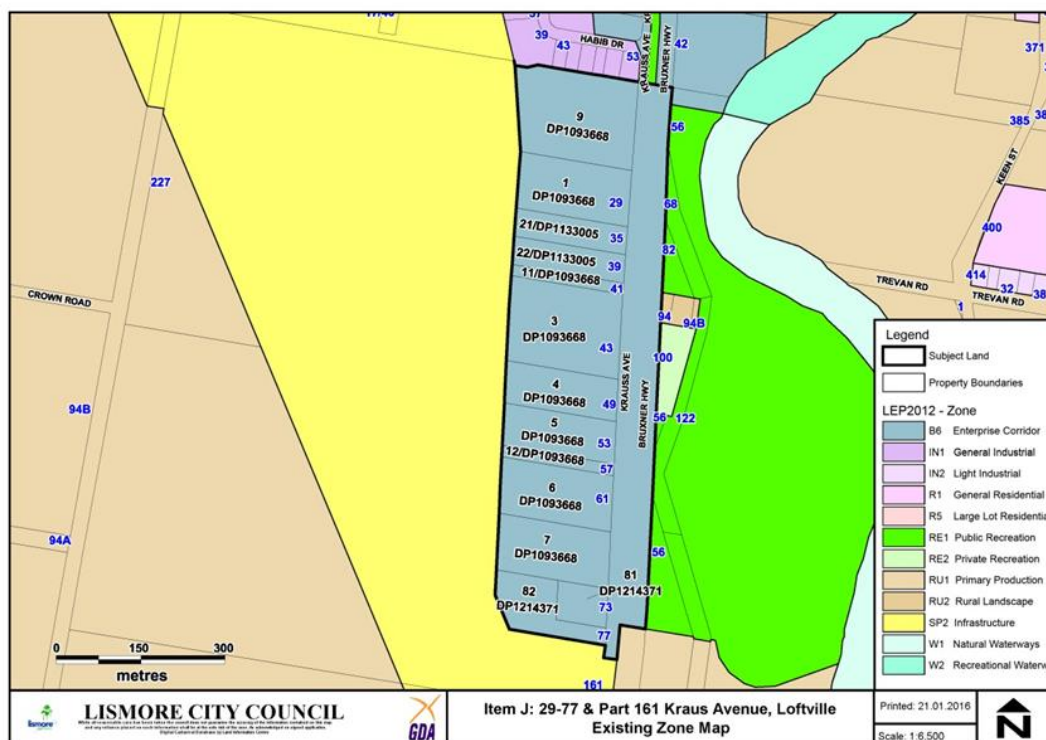


Site I – Rail Corridor Urban – aerial location map

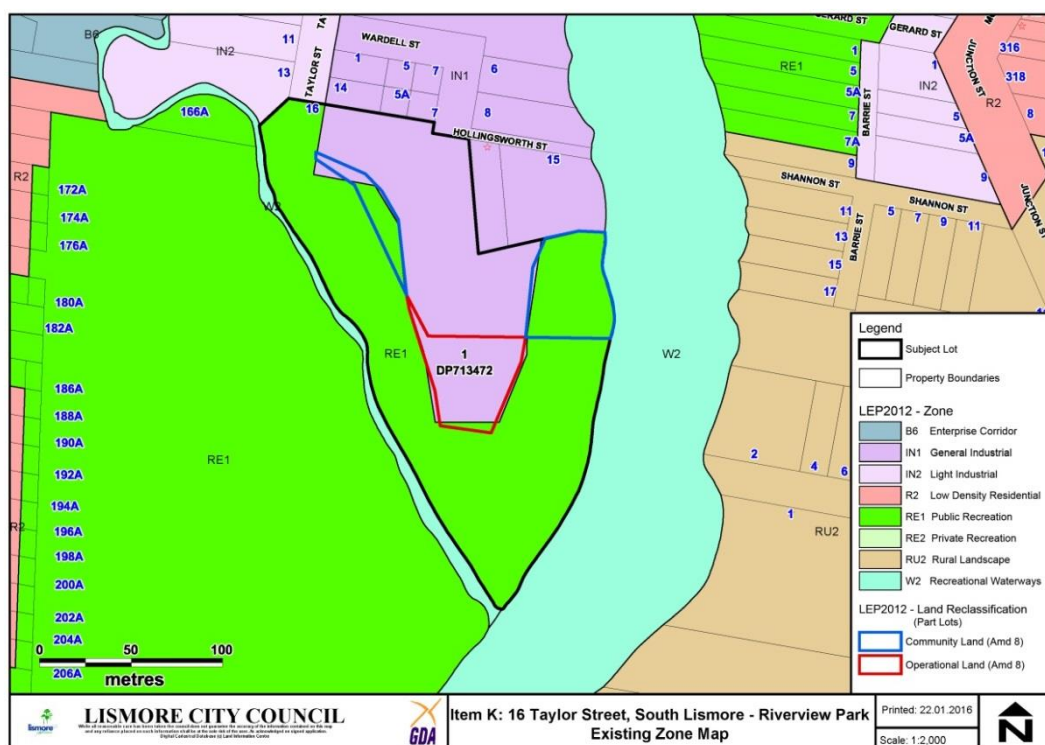
(refer to Attachment 1 for East and West Rail Corridor)



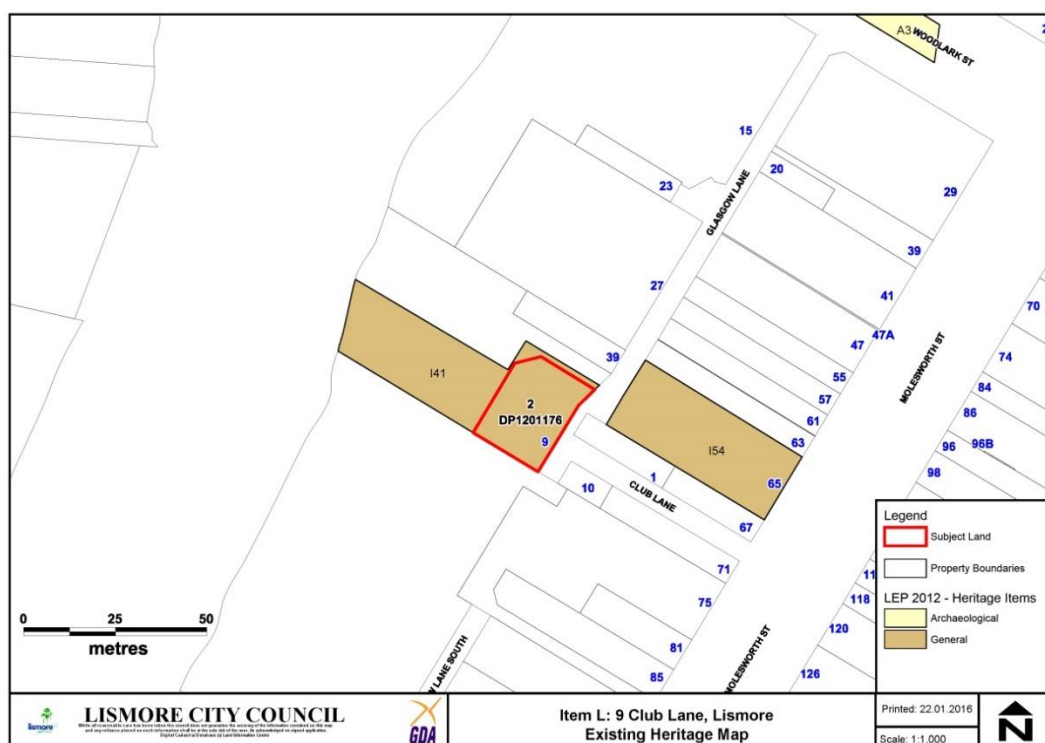
Site J – Airport Industrial Estate – existing zone map



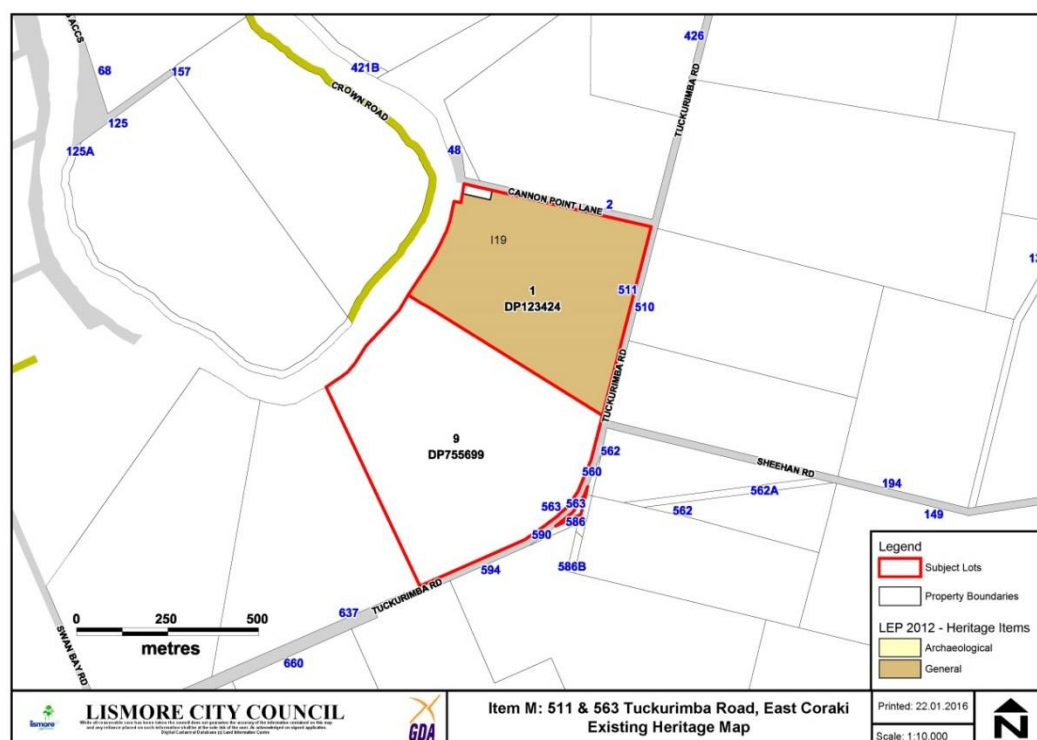
Site K – 16 Taylor Street, South Lismore – existing zone and classification map



Site L – 9 Club Lane – existing heritage map



Site M – 511 & 563 Tuckurimba Road, East Coraki – existing heritage map



Overview of the planning proposal

Table 2 below provides an overview of the planning proposal structured in accordance with the DP&E guidelines for planning proposals.

Table 2 Overview of planning proposal

Part	Requirements	Description of planning proposal
1	OBJECTIVES OR INTENDED OUTCOMES	The objectives of this proposal follow: - To rectify minor anomalies involving the: Land Zoning Map; Lot Size Map; Height of Buildings Map; and Heritage Map. - To make minor amendment to the Land Zoning Map in response to demand involving consequential amendments to the Lot Size Map and/or the Height of Buildings Map. - To rectify a minor anomaly in the Land Use Table. - To make minor amendments to the Land Use Table in response to demand. - To rectify minor anomalies to Schedule 5 – Environmental Heritage. - To refine non-mandatory clause 4.2C Erection of dual occupancies (detached) in Zone RU1; and clause 4.2D Exceptions to minimum subdivision lot size for lot boundary adjustments in Zone RU1.

Part	Requirements	Description of planning proposal
2	EXPLANATION OF PROVISIONS	- Amend Land Zoning Map Sheets: LZN_004; LZN_005; LZN_005AA; LZN_006A; LZN_006AA; and LZN_006AB. - Amend Lot Size Map Sheets: LSZ_002; LSZ_004; LSZ_005; LSZ_005AA; LSZ_005AB; LSZ_006; LSZ_006AA; and LSZ_006AB. - Amend Height of Buildings Map Sheets: HOB_004; HOB_005AA; HOB_006; and HOB_006AB. - Amend Heritage Map Sheets: HER_005AA; and HER_006
3	JUSTIFICATION Section A – Need for the Planning Proposal 1. <i>Is the Planning Proposal a result of any strategic study or report?</i> 2. <i>Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</i>	- This general amendments planning proposal forms part of the recurrent activities in accordance with s16 of Imagine Lismore 4 Year Plan. - Yes
3	JUSTIFICATION Section B – Relationship to Strategic Planning Framework 3. <i>Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?</i> 4. <i>Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan?</i> 5. <i>Is the Planning Proposal consistent with applicable State Environmental Planning Policies?</i> 6. <i>Is the Planning Proposal consistent with applicable s117 Ministerial Directions?</i>	- The planning proposal is consistent with the Far North Coast Regional Strategy (FNCRS) outcomes and actions. - Consistent with relevant LEP 2012 zone objectives; - Consistent with Imagine Lismore 4 Year Plan. - Consistent (Refer to Attachment 1 for detail). - Consistent or justifiably inconsistent (Refer to Attachment 1 for detail).
3	JUSTIFICATION Section C – Environment, Social and Economic Impact 7. <i>Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?</i> 8. <i>Are there any likely environmental effects as a result</i>	- The planning proposal is limited to general housekeeping amendments only; - There is no critical habitat in the LGA; - There will be no adverse impacts on threatened species, populations or ecological communities or their habitats. - Each of the sites proposed for rezoning has been reviewed for environmental constraints. The

Part	Requirements	Description of planning proposal
	<i>of the Planning Proposal and how are they proposed to be managed?</i> 9. How has the Planning Proposal adequately addressed any social and economic effects?	planning proposal will not result in any negative environmental effects; • Due to the minor nature of the proposed amendments there are no additional technical reports recommended. • The proposed zone changes are generally to accommodate existing development or approved and yet to be constructed development. Two of the proposed zone changes involve vacant urban land already zoned for urban use. • A review of Aboriginal and European cultural heritage has been undertaken. None of the sites proposed for changes to zone, minimum lot size of height of buildings were identified in either: the Aboriginal Heritage Management Information System; or an unpublished report entitled "Wiyabal Aboriginal Clan (Bundjalung Nation) Cultural Heritage & Values Relating to the Lismore City Council Local Government Area" prepared by Collins M and Heron R dated June 2000. • No further reporting recommended.
3	JUSTIFICATION Section D – State and Commonwealth Interests 10. Is there adequate public infrastructure for the Planning Proposal? 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?	• The general amendments do not present any additional demands on public infrastructure; • No further reporting recommended. • Consultation is recommended with the following public authorities/organisations: RFS; and CASA.
4	MAPPING	• Refer to LEP Maps in Attachment 1 to this report.
5	COMMUNITY CONSULTATION	• Recommended 28 day exhibition period.
6	PROJECT TIMELINE	• Recommendation of 12 months for completion (Refer to attachment 1 for detail).
7	DELEGATIONS	• Recommendation for Council to exercise plan making delegations.

Strategic Alignment

Amendments to the LEP are part of the recurrent activities listed in the Imagine Lismore 4 Year Plan.

Some of the land zoning and land use table amendments are proposed in response to demand. The outcome of these amendments will be to provide additional permissible land uses in appropriate zones in order to accommodate the needs of the business community.

There are no pecuniary or non-pecuniary costs associated with the planning proposal. The benefits of the proposal include:

- Zone changes to suit existing or approved and yet to be constructed land uses.
- Zone changes to facilitate additional business activity.

- Land Use Table amendments to facilitate the development of additional land uses.
 - Land Use Table amendment for consistency with the Codes SEPP.
 - The maintenance of an accurate, contemporary LEP that provides a balanced response to social, environmental and economic needs of the LGA and the community within.
 - Minor refinements to clause 4.2C and 4.2D to provide positive planning outcomes.
- There are no identifiable risks associated with the proposal. The LEP is monitored and reviewed periodically and in the event of an issue arising, the plan can be amended in the future.

Comments

Finance

Not required.

Other staff comments

The general amendments planning proposal is the result of input from the Sustainable Development and the Development and Compliance sections of Council.

Council's Compliance Coordinator has reviewed all of the proposed rezoning sites against the requirements of SEPP 55 and concluded that no additional reporting is required.

LEP delegations

Council resolved at its Ordinary meeting of 11 December 2012 to accept the delegations which will enable Council to process the final stages of a planning proposal (LEP amendment) as outlined in Planning Circular PS12-006.

In accordance with the resolution Council wrote to the Minister of Planning and Infrastructure accepting the delegations under section 59 of the *Environmental Planning and Assessment Act 1979* and informed the Minister that the function is sub-delegated to the General Manager in accordance with section 381 of the *Local Government Act 1993*.

The delegations only extend to routine LEPs as listed below:

- Section 73A amendments (minor errors and anomalies, amending references to documents, etc.)
- Council land reclassifications
- Some local heritage items
- Spot rezonings consistent with endorsed strategies and/or surrounding zones
- Mapping alterations
- Other matters of local significance as determined by the Gateway.

It is recommended that Council lodge a request with the Department of Planning and Environment seeking to exercise plan making delegations under s59 of the *EP&A Act 1979*.

Public consultation

Council will commence community consultation post Gateway determination. For the purposes of public notification, Council considers that a twenty eight (28) day public exhibition period is appropriate.

Notification of the exhibited planning proposal will include:

- publication in Council's Local Matters newsletter that circulates in the area affected by the planning proposal;
- the websites of Lismore City Council and the Department of Planning and Environment;
- letter to adjoining landholders.

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.

Exhibition material:

- 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 the public consultation requirements.

Conclusion

This report has outlined a planning proposal to undertake Council's third round of general amendments of the Lismore LEP 2012. These are largely to amend mapping or instrument anomalies or errors and in response to demand for uses not currently permitted in certain zones. An assessment of the planning proposal indicates that it complies with the relevant SEPPs and is consistent or justifiably inconsistent with the section 117 Ministerial Directions. The proposal is also consistent with the objectives and actions contained within the Far North Coast Regional Strategy.

There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for its consideration and response.

Attachment/s

1. Planning Proposal report prepared in accordance with DP&E guidelines (Over 7 pages)