

Planning Team Report

Proposal Title :	Lismore LEP 2012 - Rezone p rural residential allotment	art of 55 Palmers Road, McL	eans Ridges to create 1 additional
Proposal Summary :	To rezone part Lot 28 DP 1130 Production to zone R5 Large hectares to 1 hectare.		eans Ridges, from zone RU1 Primary the minimum lot size from 40
			this lot by rezoning a 20m wide strip land to RU1 Primary Production.
PP Number :	PP_2017_LISMO_005_00	Dop File No :	17/06264
Proposal Details			
Date Planning Proposal Received :	17-May-2017	LGA covered :	Lismore
Region :	Northern	RPA :	Lismore City Council
State Electorate :	LISMORE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		
Location Details			
Street : 55	Palmers Road		
Suburb :	City :	McLeans Rides	Postcode : 2480
Land Parcel : Lot	28 DP 1130169		
DoP Planning Offi	cer Contact Details		
Contact Name :	Jenna McNabb		
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RPA Contact Deta	ils		
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DoP Project Mana	ger Contact Details		
Contact Name :	Tamara Prentice		
Contact Number :	0266416600		
Contact Email :	tamara.prentice@planning.nsw	.gov.au	

N/A	Release Area Name :	N/A
North Coast Regional Plan 2036	Consistent with Strategy :	No
	Date of Release :	
1.00	Type of Release (eg Residential / Employment land) :	Residential
0	No. of Dwellings (where relevant) :	1
0	No of Jobs Created :	0
Yes		
		-
No		
Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other agencies and lobbyists concerning the proposal.		
The proposal as submitted is for rezoning to enable two additional rural residential allotments. At the April Council meeting an alternative option, Option B, was put forward. Option B creates only one additional lot, which adjoins existing R5 Large Lot Residential Land at Baldock Drive (located on the south-west corner of the site). For the reasons set out in this report it is recommend this 'option B' be supported. Council staff were contacted and have raised no objection to this approach.		
C ARRENCE CONTRACTOR		
jectives - s55(2)(a)		
jectives provided? Yes		
intends to amend Lismore LI	EP 2012 to facilitate the subdiv	vison of the land two create
		ended to be amended to enable
isions provided - s55(2)(b)		
visions provided? Yes		
	North Coast Regional Plan 2036 1.00 0 0 Yes The Department's Code of Com Lobbyists has been complied w No No Northern Region has not met at Region been advised of any me proposal. The proposal as submitted is for allotments. At the April Council Option B creates only one addi Land at Baldock Drive (located out in this report it is recomment and have raised no objection to the statement of objectives intends to amend Lismore L additional rural residential loc As discussed earlier in this in the creation of only one addi isions provided - s55(2)(b)	North Coast Regional Plan Consistent with Strategy : 2036 Date of Release : 1.00 Type of Release (eg Residential / Employment land) : 0 No. of Dwellings (where relevant) : 0 No of Jobs Created : Yes Yes The Department's Code of Conduct In relation to communicat Lobbyists has been complied with to the best of the Region's No Northern Region has not met any lobbyists in relation to this Region been advised of any meeting between other agencies proposal. The proposal as submitted is for rezoning to enable two addit allotments. At the April Council meeting an alternative option Option B creates only one additional lot, which adjoins existin Land at Baldock Drive (located on the south-west corner of th out in this report it is recommend this 'option B' be supported and have raised no objection to this approach. t

Zoning Map, Lot Size Map and Height of Buildings Map.			
Justification - s55 (2)(c)			
a) Has Council's strategy been agreed to by the Director General? Yes			
b) S.117 directions identified by RPA : 1.1 Business and Industrial Zones			
* May need the Director General's agreement * May need the Director General's agreement 1.2 Rural Zones 1.3 Mining, Petroleum Production and Extractive Industries 1.5 Rural Lands 2.1 Environment Protection Zones 2.3 Heritage Conservation 3.4 Integrating Land Use and Transport 3.5 Development Near Licensed Aerodromes 4.1 Acid Sulfate Soils 4.4 Planning for Bushfire Protection 5.1 Implementation of Regional Strategies 5.3 Farmland of State and Regional Significance on the NSW Far North Coast 6.1 Approval and Referral Requirements 6.3 Site Specific Provisions 3.6 Shooting Ranges 5.10 Implementation of Regional Plans			
Is the Director General'	s agreement required?	lo	
c) Consistent with Standar	d Instrument (LEPs) Ord	ler 2006 : Yes	
d) Which SEPPs have the	RPA identified?	SEPP No 44—Koala Habitat Protection SEPP No 55—Remediation of Land SEPP (Rural Lands) 2008	
e) List any other matters that need to be considered :			
Have inconsistencies with	items a), b) and d) being	g adequately justified? Yes	
If No, explain :			
Mapping Provided - s5	i5(2)(d)		
Is mapping provided? Yes			
Comment :	Comment : Maps have been included in the planning proposal which adequately show the intended outcome of this amendment subject to being updated prior to exhibition to remove the proposed Palmers Rd lot.		
		cordance with the Department's technical mapping standards will re a Parliamentary Counsel's opinion can be sought.	
Community consultati	on - s55(2)(e)		
Has community consultation	on been proposed? Yes		
Comment :		ed a 28 day community consultation period. This approach is oposal is not identified in Council's adopted local growth ly.	
Additional Director Ge	eneral's requiremen	ts	
Are there any additional D	irector General's require	ements? No	
If Yes, reasons :			

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :	The planning proposal and accompanying documentation are considered to satisfy the adequacy criteria by:
	1. Providing appropriate objectives and intended outcomes,
	Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes,
	3. Providing an adequate justification for part of the proposal,
	4. Outlining and acceptable community consultation program, and
	5. Providing a project timeline.
	Council is seeking an authorisation to exercise its plan making delegations. As the planning proposal (as modified) deals with matters that are of local planning
	significance it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.
	Council has provided a project timeline which estimates that the LEP will be ready for notification in May 2018. This timeframe appears adequate to facilitate the required
	studies, and as such the 12 month timeframe is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation The Lismore LEP 2012 was notified on 22 February 2013. to Principal LEP :

Assessment Criteria

Need for planning proposal :	The planning proposal is an unsolicited request from the landowner. It does however contribute to the requirement for rural residential development lots in the Lismore LGA. The LGMS identifies that 438ha of additional rural residential land would be required from 2015-2035. The strategy identifies only 432ha of suitable land, leaving a shortfall of 6ha over the next 20 years to which this proposal will contribute. The proposal is also generally consistent with the intent of local growth management strategy to focus rural residential development to within a 4km radius of significant urban areas such as Goonellabah in this instance.
	Council has identified that constraints on the traffic network have limited the capacity for McLeans Ridges to expand, with some intersections already operating below an acceptable level of service. While it is recognised that there will be pressure for McLeans Ridges to expand despite these constraints due to its location and views, the LGMS attempts to provide alternative rural residential land stock in more appropriate locations.
	Noting the limitation on development in this locality, it is recommended only one additional lot be supported, and the proposal be used as a chance to rationalise the strip of R5 zoning along the southern frontage of this lot.
	A planning proposal is the most appropriate mechanism to achieve the intent of the proposal.

Consistency with strategic planning framework :	*North Coast Regional Plan The North Coast Regional Plan applies to the subject site. The plan promotes a settlement pattern that protects environmental values and natural resources while utilising and developing the existing network of major urban centres, reinforcing village character and requiring efficient use of existing services and major transport routes.
	Direction 11 - relates to the protection of agricultural land and enabling the growth of the agricultural sector. No identified important agricultural land is involved in the rezoning, however the rural allotment does contain some regionally significant farmland at its northern end. While the land to be rezoned is not mapped as State or regionally significant farmland it is part of a functioning rural property. The proposed 'finger' of rural residential land in the planning proposal will intrude into this rural property, adjacent to the stockyards and potentially sterilise this part of the protection of agricultural land and is not supported.
	Direction 21 - relates to locating new development to take advantage of existing local infrastructure. The Council report on this matter identified that Palmer Rd only has a 3.5m pavement width, needs to be widened and does not meet current standards. It also acknowledges that it will not be feasible to have Palmers Rd upgraded to serve one additional lot. Therefore it is considered the proposed Palmers Rd lot is inconsistent with the regional plan as adequate local road infrastructure to serve the lot is not available. This poses a significant public safety issue particularly as Council considers any future upgrading of the road for this development unfeasible.
	Direction 24 - relates to delivering well planned rural residential housing areas. The Regional Plan states 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. The planning proposal as submitted is inconsistent with the Regional Plan as the subject land is not identified in the local growth
	If the proposal is amended to exclude the 'finger', it will enable rationalisation of the anomaly of the R5 strip along the southern frontage, and one additional allotment functioning as a minor extension to an existing rural residential area, in keeping with the existing settlement pattern. In this layout the proposal can be considered to be generally consistent with the intent of the LGMS and only a minor inconsistency with the Regional Plan, which is considered to be satisfactory.
	*Lismore Growth Management Strategy 2015 - 2035 The planning proposal is inconsistent with the Strategy, as it is not identified as a potential large lot residential growth area.
	The draft Strategy proposed the inclusion of three sites in McLeans Ridges, which all had limited development potential, one of those areas being the subject land. Council excluded the subject land from the strategy, given the site is divided by a gully (south-east to north-west), restricted access to the site and due to the general traffic and land use conflict concerns cited in the strategy in relation to McLeans Ridges. The subject land was excluded from the draft Strategy exhibition and the final endorsed Strategy.
	The proposed Palmers Rd 'finger' lot will have traffic, landscape, land use conflict and access issues. This part of the proposal is not supported, for the same reasons as the land was excluded from the strategy. It would also significantly undermine the legitimacy of the local strategy and its underpinning principles, and could result in a number of further adhoc requests for land outside the strategy that is constrained, isolated or served by inadequate infrastructure.
	It is considered however that the creation of one additional allotment for a dwelling adjacent to existing rural residential land on relatively unconstrained land in accordance with Option B of the Council report, whilst inconsistent with the strategy, can be supported

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as - the allotment is not identified as a significant resource base, is not within a resource buffer area and is adjacent to existing rural residential development; - this site (unlike the 'finger' lot) is serviced by an existing sealed road that is capable of serving the development and will not pose a risk to public safety; - is unlikely to be intrusive in terms of the potential land use conflict and the rural functioning of the adjoining primary production land; and - will provide an opportunity to rectify the current R5 Zone anomaly on the southern boundary of the subject site without disadvantaging the land owner. *SEPPs A number of State Environmental Planning Policies also apply to this proposal. Primarily these include: SEPP 44 Koala Habitat Protection - Part of the subject allotment is mapped as primary koala habitat. However the land proposed to be rezoned does not include this area or any koala vegetation. As such the proposal is consistent with this SEPP. SEPP 55 Remediation of Land - The Policy requires the potential for land contamination to be considered in the preparation of an environmental planning instrument. The planning proposal at this time identifies the historic use of the land is not likely to cause potential contamination. However Council considers a contamination assessment should be undertaken post gateway if this proposal is supported. Council's approach is supported and a preliminary site investigation should be undertaken prior to the LEP being finalised. A condition is included as such. SEPP (Rural Lands) 2008 - The SEPP provides that the planning proposal must be consistent with the Rural Planning Principles. The submitted configuration of the rezoning and lot layout further encourages fragmentation of rural land, resulting in an isolated 'finger' of R5 land surrounded by agricultural land, contributing the land use conflict. The planning proposal as submitted is inconsistent with all the Principles of the SEPP. It is recommended that the rezoning of only the western part of the land in accordance with 'Option B' in the Council Report is more consistent with the planning principles of the SEPP. This reduced area adjoins existing large lot residential land, and is significantly less environmentally constrained, in that the area is not subject to flooding, steep slope or bushfire. The inconsistencies with the rural subdivision principles are considered to be minor following amendment of the proposal. *Section 117 Directions A number of S117 Directions apply to this Planning Proposal. The proposal is considered to be consistent with relevant s117 Directions except in relation to the following: Direction 1.2 Rural Zones - The planning proposal is inconsistent with this Direction as it seeks to rezone approximately 3ha of land from a rural zone (RU1 Primary Production) to residential zone (R5 Large Lot Residential) under the Lismore Local Environmental Plan 2012. The proposal includes 2 proposed areas for rezoning. One of the proposed areas is an elongated intrusion into the rural zone, adjacent to stock yards, and having the capacity to create precedent and edge effects. This component of the proposal is inconsistent with the intent of this direction as it potentially impacts the rural production of this land. The other component is adjacent to rural residential land and contains a battle axe entrance which is already zoned R5. This component can be justified as being of minor inconsistency. It is considered that the creation of one additional allotment for a dwelling adjacent to existing rural residential development on relatively unconstrained land in accordance with Option B of the Council report is of minor significance.

Direction 1.3 Mining, Petroleum Production and Extractive Industries - This direction aims to protect State or regionally significant minerals from encroachment by development.

r	al residential allotme	2 NT
		This proposal is inconsistent with this direction as it will prohibit mining and extractive industries on the land to be zoned R5. As the allotment is not identified as a significant resource base, nor within a buffer from such and is adjacent to existing rural residential development it is unlikely that this proposal will impact on resources of State or regional significance. As such the inconsistency is considered to be of minor significance.
		Direction 1.5 Rural Lands – The Ministerial Direction applies when a proposal impacts land or changes the minimum lot size within a rural zone. The planning proposal to create two additional fragmented allotments is inconsistent with this direction and its justification of being of minor significance is not supported due to potential land use conflicts and possible negative impacts on primary production in the area. An endorsed Strategy does not identify the site for future urban expansion, conversely the site has been consistently identified for rural purposes. The Department of Primary Industries has not been consulted.
		It is recommended that the creation of one additional allotment for a dwelling adjacent to existing rural residential land in accordance with Option B of the Council report, whilst remaining inconsistent with the direction can be justified as of minor significance. It is recommended a condition be applied as such.
		Direction 3.1 Residential Zones - The proposal is inconsistent with this Direction as it rezones R5 Large Lot Residential land to rural and reduces the permissible residential density. This inconsistency is considered to be of minor significance due to the small area of land involved (0.3ha) and as the current R5 Zone along the southern boudnary of the site appears to be a result of a mapping error.
		Direction 4.4 Planning for Bushfire Protection – The Ministerial Direction applies when a relevant planning authority prepares a planning proposal that will affect or is in proximity to land mapped as bushfire prone land. The proposal is inconsistent with this direction and is required to be referred to the NSW Rural Fire Service prior to consistency with this direction direction being agreed to.
		Direction 5.10 Implementation of Regional Plans – The Ministerial Direction requires a planning proposal to be consistent with the relevant regional plan. Action 24.1 of the North Coast Regional Plan recognizes that rural residential housing should be well planned and located in a LGMS endorsed by the Department. The subject land is not identified in the Lismore LGMS 2015-2035. The rezoning of this land to create one additional rural residential allotment, as recommended for the reasons discussed above, is considered to be of minor significance.
		The inconsistencies with Section 117 Direction 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 3.1 Residential Zones and 5.10 Implementation of Regional Plans are justified as being of minor inconsistency if the proposal is limited through a condition to only enable rezoning of the western proposal allotment. Proceeding with the proposal as submitted will result in potential land use conflict, and is not supported.
		The inconsistency with s117 direction 4.4 remains unresolved and consultation with the RFS will be required in this regard.
	Environmental social economic impacts :	The area proposed to be rezoned has been dictated by existing land use constraints on the site. The site is undulating, and a steep gully runs through the site from south-east to north-west. There are a number of watercourses and the land contains a small mapped area of primary koala habitat. Part of the land is also bushfire prone, or located within the buffer area.
		*Land Use Conflict Risk Assessment
		NSW DPI generally recommends a 200m buffer between housing and stockyards, and 50m between housing and grazing. The intrusion of the 'finger' would not comply with the recommended buffer from the stockyards. No LUCRA assessment has been undertaken to support this part of the proposal.
-		

While the Palmers Rd 'finger' lot is not supported on strategic grounds, traffic and LUCRA grounds, the proposed western allotment is unlikely to be impacted by the rural operations. This site is separated from the majority of the site by a steep gully and is removed from the stockyards. The proposed 1ha MLS will also be large enough that any future dwelling can be setback 50m from the rural operations.

It is considered that as the western component of this proposal is adjacent to existing rural residential development, a LUCRA assessment would not be required to support its rezoning. Should a future dwelling house be located within the buffer area Council can require such assessment at subdivision stage.

*Environmental

The site is mapped as bushfire prone however this mapping does not extend to any of the land proposed to be zoned for rural residential development. Irrespective consultation will be required with the NSW RFS prior to the commencement of community consultation as required in s117 direction 4.4.

The site is not constrained by flooding or acid sulfate soils.

The site contains mapped primary koala habitat and mapped regionally significant farmland, however these areas are not proposed to be rezoned.

There are no items or places of cultural significance registered at or in proximity to this site in the AHIMS register or under the Lismore LEP 2012. However Council have recommended a cultural heritage assessment be undertaken should this proposal be supported post gateway. It is recommended a condition be included as such and the proposal be referred to the Office of Environment and Heritage for comment.

Onsite waster water disposal will be required for the additional allotment, the proposed 1ha MLS will ensure sufficient room for a compliant OSWMS. Council's Environmental Health staff have undertaken a site inspection and support the use of on-site sewage management.

The land is located within a drinking water catchment, this is not an impediment to progression of the proposal. Tank water will be required to supply the proposed additional dwelling with potable water.

A preliminary flora and fauna assessment (Melaleuca Group Pty Ltd) has been undertaken. The assessment found that there are no significant environmental constraints that indicate the subject land would be unsuitable for rezoning. Council staff have accepted this report and recommended no further studies at this stage. This recommendation is supported.

*Social Impacts

The retention of rural vistas and the protection of rural land are emphasized in the Growth Management Strategy. Development of the eastern 'finger' would be contrary to the objectives of the Growth Management Strategy, particularly as the subject land was excluded as being suitable for rural residential expansion. However the rezoning of the proposed western allotment, adjacent to the existing rural residential area and not impacting rural vistas or agricultural buffers is considered consistent with the aims of the LGMS, and an acceptable social outcome.

*Economic Impacts

One additional allotment is supported as part of a modified planning proposal. This additional allotment is serviceable by existing infrastructure, and will not increase Councils servicing burden. It will support the local economy during the investigation and construction stages, and as a result of the additional people within the Lismore LGA.

*Infrastructure

As discussed above, Council has identified that Palmer Rd only has a 3.5m pavement

Lismore LEP 2012 - Rezone part of 55 Palmers	Road, McLeans	Ridges to	create 1	additional
rural residential allotment				

width, needs to be widened and does not meet current standards. It also acknowledges
that it will not be feasible to have Palmers Rd upgraded to serve one additional lot.
Therefore the proposed Palmers Rd lot is not supported as adequate road infrastructure to
serve the lot is not available, and poses a public safety issue, as Council considers any
upgrading for this development unfeasible.

Assessment Process

No internal consultatio				
Identify any internal con-		1:		
A contamination asses diligence requirements		SEPP 55, and	an aboriginal cultural herita	ge assessments to meet due
Heritage Other - provide details If Other, provide reasons	s :			
Identify any additional st	udies, if required. :			
If Yes, reasons :				
Resubmission - s56(2)(b): No			
	Department of Pri Service, it is cons	mary Industrie idered the mo	es, Roads and Maritime Serv dified proposal as recomme	FEnvironment and Heritage, vices and the NSW Rural Fire ended will only require consult further should it wish.
If no, provide reasons :	being excluded.		ers Rd 'finger' lot on the ea	
(2)(a) Should the matter	proceed ?	Yes		
Is Public Hearing by the	PAC required?	No		
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Se	ervice		
Timeframe to make LEP :	12 months		Delegation :	DDG
Proposal type :	Routine		Community Consultation Period :	28 Days

S.117 directions:	1.1 Business and Industrial Zones
	1.2 Rural Zones 1.3 Mining, Petroleum Production and Extractive Industries
	1.5 Rural Lands
	2.1 Environment Protection Zones 2.3 Heritage Conservation
	3.4 Integrating Land Use and Transport
	3.5 Development Near Licensed Aerodromes 4.1 Acid Sulfate Soils
	4.4 Planning for Bushfire Protection
	5.1 Implementation of Regional Strategies 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
	6.1 Approval and Referral Requirements
	6.3 Site Specific Provisions 3.6 Shooting Ranges
	5.10 Implementation of Regional Plans
Additional Information :	It is recommended that the planning proposal be supported subject to the following conditions:
	1. Prior to the commencement of community consultation the planning proposal is to be updated to remove the eastern Palmers Rd 'finger' lot, and proceed as per 'Option B' of the report to Lismore City Council Ordinary Meeting, dated 11 April 2017;
	2. Prior to the commencement of community consultation the following studies are to be undertaken to Council's satisfaction and if necessary the planning proposal updated to
	reflect their conclusions: (a) an assessment of potential contamination; and
	(b) an Aboriginal cultural heritage assessment.
	3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
	(a) the planning proposal must be made publicly available for a minimum of 28 days; and
	(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing Local Environmental Plans (Department of Planning and Environment 2016).
	4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
	 NSW Rural Fire Service Office of Environment and Heritage
	Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
	5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land); and
	6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
	and that the Secretary's delegate:
	- Issues a written authorisation to exercise delegation to Lismore City Council;

	- Determines that the inconsistencies with s117 directions 1.2, 1.3, 1.5, 3.1 and 5.10 are justified as being of minor inconsistency; and		
	- Notes the unresolved inconsistency with s117 direction 4.4.		
Supporting Reasons :	The proposal as submitted has not been supported as the eastern Palmers Rd 'finger' lot has not adequately been justified, is outside the endorsed strategy, is expected to lead to land use conflict, and is not adequately served by the local road network.		
	The revised zoning pattern creating only one additional allotment with access to Baldock Road will function as a minor extension to an existing rural residential area, contiguous with the existing settlement pattern, and enable the back zoning of a strip of inappropriate R5 land. This part of the proposal is supported.		
Signature:	D.		
Printed Name:	<u>Crang Disz</u> Date: <u>5/6/17</u>		