

Rezoning of residential land at Old Lismore Road, Murwillumbah

Proposal Title : **Rezoning of residential land at Old Lismore Road, Murwillumbah**

Proposal Summary : **The proposal seeks to amend the Tweed LEP 2014 by rezoning Lot DP 1046935, Old Lismore Road, Murwillumbah from the current R5 Large Lot Residential zone to R2 Low Density Residential, facilitating a western expansion of the Hundred Hills residential estate. The proposal also seeks to amend the Tweed LEP 2014 to incorporate changes from the Council's Housekeeping Review relating to the estate, to reflect the low density residential character of the locality.**

PP Number : **PP_2015_TWEED_003_00** Dop File No : **15/06962**

Proposal Details

Date Planning Proposal Received :	24-Apr-2015	LGA covered :	Tweed
Region :	Northern	RPA :	Tweed Shire Council
State Electorate :	TWEED	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Old Lismore Road		
Suburb :	Murwillumbah	City :	Postcode : 2484
Land Parcel :	Lot DP 1046935		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy :

Consistent with Strategy :

MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings 40
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been No
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Tweed LEP 2014 by rezoning residential land from R5 Large Lot Residential to R2 Low Density Residential to facilitate the western expansion of the Hundred Hills residential estate.

Further amendments to the Tweed LEP 2014 are sought to the wider Hundred Hills estate to reflect the low density character of the locality.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal.

With regards to Lot 1 DP 1046935 the proposal seeks to amend the LEP's Land Zoning map from R5 Large Lot Residential to R2 Low Density. This will also include amendments to the Minimum Lot Size map from 1ha to 450m2 and the Maximum Floor Space Ratio map from 0.55:1 to 0.8:1.

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Lots that are included in the Housekeeping Review have been split into five groups:
Group 1 lots currently zoned R1 General Residential are to be rezoned as R2 Low Density Residential with subsequent amendments to the LEP's Land Zoning Map, Minimum Lot Size map to 450m², Height of Buildings map to 9m and Floor Space Ratio map to 0.8:1.

Group 2 lots currently zoned R1 General Residential are to be rezoned as B1 Neighbourhood Centre with subsequent amendments to the Land Zoning map to B1 Neighbourhood Centre, Minimum Lot Size map to show no minimum lot size, Height of Buildings map to 13.6m and Floor Space Ratio map to 2:1.

Group 3 lots currently part zoned R1 General Residential and part RE2 Private Recreation are to be rezoned R2 Low Density Residential with subsequent amendments to the Land Zoning map to R2 Low Density Residential, Minimum Lot Size map to 450m², Height of Buildings map to 9m and Floor Space Ratio map to 0.8:1.

Group 4 lots currently part zoned R2 Low Density Residential and part RE2 Private Recreation are to be rezoned R2 Low Density Residential with subsequent amendments to the Land Zoning map to R2 Low Density Residential, Minimum Lot Size map to 450m², Height of Buildings map to 9m and Floor Space Ratio map to 0.8:1.

Group 5 lots currently zoned RE2 Private Recreation are to be fully zoned as RE1 Public Recreation with subsequent amendments to the Land Zoning map to RE1 Public Recreation and the Height of Buildings map to 10m.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The planning proposal contains maps which adequately show the proposed changes to Lot 1 DP 1046935 and lots within the Housekeeping Review. The current and proposed Land Use Zoning maps, and proposed Lot Size, Height of Buildings and Floor Space Ratio maps are included in the planning proposal.

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal states whilst the proposal is small, the expansion of the established and emerging residential area will be of interest to the local community. As such the proposal nominates a 28 day community consultation period.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : **Timeline**
The planning proposal includes a project timeline which estimates the completion of the proposal in January/February 2016. To ensure the RPA has adequate time to complete exhibition, reporting and legal drafting it is recommended that a time frame of 9 months in appropriate.

Delegation

Tweed Shire Council has not accepted delegation for making LEPs. Council has not sought an Authorisation to exercise delegation for this proposal. An Evaluation Criteria for the Delegation of Plan Making Functions has not been provided. It is recommended that an Authorisation for the execution of delegation not be issued to Tweed Shire Council in this instance.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by;

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

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Tweed LEP commenced on the 4th April 2014. This planning proposal seeks to make amendments to the Tweed LEP 2014.

Assessment Criteria

Need for planning proposal :

The Planning Proposal is not the result of any strategic study. Lot 1 DP 1046935, hereafter referred to as 'the subject site', is not currently included within an approved or draft local residential strategy, nor is it mapped within the Far North Coast Regional Strategy (FNCRS) 'Town and Village Growth Boundary'. However, the subject site does adjoin this boundary to the north, east and south east and is adjacent to future potential urban land identified in the Tweed Urban and Employment Land Release Strategy (TUELRs) 2009. The site is relatively unconstrained and in a sustainable location with easy access to existing services. It will effectively become an infill area that connects the otherwise separated urban areas.

The subject site's proponent originally requested that the site be rezoned as an R1 General

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Residential zone. After review by the Council, rezoning of the site as an R2 Low Density Residential zone was considered more desirable and appropriate as it better encompassed the site conditions, built form and character of the existing residential estate. The low density development of the site will also ensure a more sustainable use of the local infrastructure. This planning proposal also seeks to rezone Lots from the Council's housekeeping review of the existing Hundred Hills estate, which is located within the FNCRS Town and Village Growth Boundary. This will ensure a consistent and complementary statutory framework to development now constructed and better reflects the land uses of the locality.

The proposed LEP amendments are the best means of achieving the objectives of the planning proposal. They will ensure a consistent statutory framework for the estate, with complementary zones and development standards.

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Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS)

The subject site is located outside the Town and Village Growth Boundary of Murwillumbah and Bray Park. To address this, an assessment against the Sustainability Criteria of the FNCRS has been provided. The site would represent a sustainable urban expansion; is already zoned R5 (rural-residential); is adjacent to an existing residential zone, and would not place unacceptable pressure on State or local infrastructure services.

The assessment against the Sustainability Criteria is satisfactory. Accordingly there is no inconsistency with the Regional Strategy, or therefore with section 117 direction 5.1.

The FNCRS states that the Tweed Local Government Area will require an additional 19,100 dwellings up to 2031 and the higher use of the site for approximately 40 residential lots would assist in achieving this housing target.

SEPPs

The proposal indicates that SEPP 44 – Koala Habitat Protection and SEPP 55 – Remediation of Land are relevant to the subject land.

A Terrestrial Flora & Fauna assessment was undertaken on the site which found no known koala habitat or core koala habitat. The planning proposal also states that a Contamination Assessment has been undertaken and subsequent remediation has been carried out to make the site suitable for residential uses.

The proposed LEP amendments would not be inconsistent with these SEPPs.

The planning proposal is of a scale and nature that will not trigger the application of Schedule 3 Traffic generating development to be referred to the RTA of the SEPP (Infrastructure) 2007.

S117 Directions

The following S117 directions are applicable to the proposal, 1.3 Mining, Petroleum Production and Extractive Industries, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.3 Home Occupations, 3.4 Integrating Land, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions.

Directions 1.2 Rural Zones 1.5 Rural Lands do not apply to this proposal as although the subject site has been viewed as a rural zone in light of its rural setting, it is formally a residential zone.

3.1 Residential Zones

The majority of the lots subject to the housekeeping review are proposed to be rezoned from R1 to R2 which removes the option of medium density development. The amendment to the zoning would be inconsistent with this Direction as it will alter the permissibility of the (currently permitted) residential flat buildings and tourist and visitor accommodation. However, the rezoning of these lots will represent an appropriate use of the land and provides consistency in zoning for future development. In these circumstances the inconsistency can be justified as of minor significance.

4.3 Flood Prone Land

Areas of land along the western and southern boundaries of the subject site are identified as flood prone. The direction requires that development not be intensified unless justified by a Flood Risk Management Plan.

This area is currently zoned R5 Large Lot Residential and is proposed to be zoned R2 consistent with the remainder of the site. The flood-labile land has been identified within the supporting studies as unsuitable for residential development and is proposed for future drainage purposes. The supporting bulk earthworks study has been designed to

leave the flood prone area as a natural drainage area. In these circumstances the inconsistency can be justified as of minor significance.

4.4 Planning for Bushfire Protection

This direction applies as land within the Council's Housekeeping Review to the north of the subject site is mapped as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued and prior to public exhibition. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

The proposal is consistent with all other relevant Section 117 Directions.

Environmental social
economic impacts :

Biodiversity

The subject site is generally void of vegetation. However, a Terrestrial Flora and Fauna Assessment has been submitted with the Planning Proposal, which has identified an Endangered Species on the site (Davidson's Plums) and provides a Management Plan for this species. The Council has accepted the study for the purposes of the planning proposal but recommends additional investigations/actions that will be required in association with future development.

Topography

The subject site is characterised by varying degrees of sloping land and a natural drainage channel runs east to west along the southern boundary of the site. Additional studies have been undertaken to ensure development could be integrated within the wider locality and appropriate infrastructure can be provided to the site. The bulk earthworks study has identified that the regrading of the existing landform will be required. This would change the landform from excessively steep sloping natural terrain to a design profile that will be able to accept house construction compatible with the rest of the development.

Flooding

A Conceptual Stormwater assessment has been submitted with the Planning Proposal which demonstrates a level of confidence that flooding or stormwater runoff to the surrounding development will have no adverse impacts on water quality or quantity.

Bushfire Prone Land

There is no part of the subject site that is identified within the Council's Bushfire Prone Land Map as being Bushfire Prone. However, part of a site to the north of the subject site which was included in the Council's Housekeeping Review for rezoning is mapped as being Bushfire Prone. No Bushfire Risk Assessment Report has been submitted to support this Planning Proposal.

Further consultation with the NSW Rural Fire Service will be required during the community consultation stage of the Planning Proposal to comply with the Direction 4.4 Planning for Bushfire Protection.

Aboriginal and Cultural Heritage

The Aboriginal Cultural Heritage Due Diligence highlights that there are no known sites of Aboriginal Heritage Cultural value in close proximity. The Tweed Byron Local Aboriginal Land Council (LALC) has identified a ridgeline at the north western edge of the subject site that has greater potential to contain campsite than surrounding areas. A recommendation of the Due Diligence is to invite a member of the Tweed Byron LALC to monitor initial earthworks on this area of the site. This can occur at development stage.

Land Contamination

On the basis of site investigations carried out for the Contaminated Land Study submitted with the Planning Proposal the subject site is considered suitable for the proposed residential use.

Social

The subject land is located adjacent to an urban area which has been developed for residential purposes. The potential yield of 40 lots is unlikely to have a significant impact on social infrastructure in the area, such as schools, the local hospital and retail and

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commercial space.

Whilst the planning proposal does not specifically seek any community facilities, any future subdivision will require the provision, or contribution towards both passive and active open space.

Economic

The planning proposal states that the proceeding development of the subject site could contribute to the local economy by generating the demand for an additional retail floorspace in the locality and yielding approximately 5 jobs. The development of the site would also contribute to the efficient use of existing infrastructure, such as water and sewerage systems and telecommunications, without causing detriment.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

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

Public Authority Consultation - s56(2) (d) : **NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2015-05-04 - Cover Letter.pdf	Proposal Covering Letter	Yes
2015-05-04 - Planning Proposal.pdf	Proposal	Yes
2015-05-04 - Planning committee report April 2015.pdf	Proposal	Yes
2015-05-04 - Area of Bushfire Prone Land Map.pdf	Map	Yes
2015-05-04 - Planning Team Report.pdf	Proposal	Yes

Planning Team Recommendation

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Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.3 Mining, Petroleum Production and Extractive Industries**
 3.1 Residential Zones
 3.3 Home Occupations
 3.4 Integrating Land Use and Transport
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 6.1 Approval and Referral Requirements
 6.2 Reserving Land for Public Purposes
 6.3 Site Specific Provisions

Additional Information : **It is recommended that:**

1. The planning proposal should proceed as a 'routine' planning proposal.
2. A community consultation period of 28 days is necessary.
3. The planning proposal is to be completed within 9 months.
4. A delegate of the Director General agrees that the inconsistencies of the proposal with S117 Directions 3.1 and 4.3 are justified in accordance with the terms of the direction.
5. The RPA consult with the Commissioner of the NSW Rural Fire Service in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
6. The Director General (or his delegate) notes the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection and that it is anticipated with inconsistency will need to be resolved prior to the proposal being finalised.
7. A copy of each of the studies submitted with the Planning Proposal should be exhibited with the proposal to allow review by the community and any public referral agency.

Supporting Reasons : The reasons for the recommendation are as follows;

1. The proposal to rezone the subject site will better encompass the characteristics of the existing adjacent estate and ensure a more sustainable use of the local infrastructure.
2. The proposal to rezone lots from the Council's housekeeping review will ensure a consistent statutory framework for the continued development of the Hundred Hills estate.

Signature: _____

Printed Name: _____



Jim Clark

Date: _____

4 May 2015

Team Leader Local Planning

