

Lismore LEP 2012 - reclassification and/or rezoning of certain council owned parks

Proposal Title : **Lismore LEP 2012 - reclassification and/or rezoning of certain council owned parks**

Proposal Summary : **The planning proposal identifies 18 areas of under-utilised public open space that Lismore City Council considers appropriate for rezoning. Sixteen sites have to be reclassified to operational and then rezoned and two sites are proposed to be rezoned only as they are currently classified as operational.**

The proposed zone for these parks will reflect their surrounding land use, 17 of the sites are proposed to be rezoned R1 General Residential and one site is proposed to be zoned IN2 Light Industrial.

PP Number : **PP_2013_LISMO_002_00**

Dop File No : **13/07423**

Proposal Details

Date Planning : **29-Apr-2013**

Proposal Received :

LGA covered :

Lismore

Region : **Northern**

RPA :

Lismore City Council

State Electorate : **LISMORE**

Section of the Act :

55 - Planning Proposal

LEP Type : **Reclassification**

Location Details

Street : **Andrews Crescent**

Suburb : **Goonellabah**

City :

Postcode : **2480**

Land Parcel : **Lot 46, DP252168**

Street : **Invercauld Road**

Suburb : **Goonellabah**

City :

Postcode : **2480**

Land Parcel : **Lot 1 DP 615434 John Brooker Park**

Street : **Nielson Street**

Suburb : **East Lismore**

City :

Postcode : **2480**

Land Parcel : **Lot 36, DP 38419; Part Lot 15, DP 35294; Part Lot 37, DP 38419**

Street : **Felicity Drive**

Suburb : **East Lismore**

City :

Postcode : **2480**

Land Parcel : **Lot 16, DP 810811**

Street : **Felicity Drive**

Suburb : **East Lismore**

City :

Postcode : **2480**

Land Parcel : **Part Lot 17, DP 810811**

Street : **Cumbræ Avenue**

Suburb : **Lismore**

City :

Postcode : **2480**

Land Parcel : **Lot 9 DP 22590; Lot 3 DP 22590, 12 Cumbræ Avenue and 9 Cadboll Street**

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Street :	Mountain View Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 17 DP 705759		
Street :	Sunnybank Avenue		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 6 DP 261029; Lot 23 DP 789841; Lot 136 DP 1087751, 11 and 11 A Sunnybank Avenue and 82 Hillcrest Avenue		
Street :	Northcott Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 52 DP 262347		
Street :	Carramar Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 44 DP 262036		
Street :	D'Arcy Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 45 DP 246743		
Street :	Spring Valley Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 32 DP 262106		
Street :	Reserve Street		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Part Lot 2 DP 814012		
Street :	Barham Street		
Suburb :	East Lismore	City :	Postcode : 2480
Land Parcel :	Lot 29 DP 1/11513		
Street :	Keith Street		
Suburb :	Girards Hill	City :	Postcode : 2480
Land Parcel :	Lot 20 DP 17769 and Lots 21-22, DP 541933 + others; 13, 15, Part 18, 19 and 19A Keith Street		
Street :	McKenzie Street		
Suburb :	Lismore	City :	Postcode : 2480
Land Parcel :	Lot 27 DP 577175, Part 106 McKenzie Street		
Street :	Cynthia Wilson Drive		
Suburb :	Goonellabah	City :	Postcode : 2480
Land Parcel :	Lot 96 DP 263169		
Street :	Ballina Road		
Suburb :	East Lismore	City :	Postcode : 2480
Land Parcel :	Lot 1 DP 772948 and Lot 1 DP 772952; 11-13 Ballina Road		

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Paula Newman**
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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 :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	30	No. of Dwellings (where relevant) :	30
Gross Floor Area :	2,217.00	No of Jobs Created :	22

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

If No, comment : **The Department of Planning Code of Practice in relation to communication and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Have there been
meetings or
communications with
registered lobbyists? :

No

If Yes, comment :

Supporting notes

Internal Supporting
Notes : **The figure for the number of residential lots is an estimate by Lismore City Council (20-30 lots). The number of jobs created is also an estimate based on the established formula of 1 job per 100sqm.**

External Supporting
Notes : **Section 27 of the Local Government Act provides that reclassification of land from community to operational occurs by means of a local environmental plan. Section 29 requires a public hearing to be held into proposed reclassifications.**

The Planning Proposal will facilitate the sale of these parcels for non-public purposes.

Following further investigations by Council, changes have been made to the planning

proposal since it was first submitted to the department these are:

i) Site 12 - 20 Gordon Blair Drive, Goonellabah (Lot 76 DP1149576) - has been removed from the planning proposal as it has been reclassified under Amendment No.33 to Lismore LEP 2000 and is now zoned part B2 and part B3; and

ii) Site 5 - Part of 27 Felicity Drive, East Lismore (Part Lot 17 DP 810811) - this part of the lot was not previously reclassified to operational with the rest of Lot 17 DP 810811 under Amendment No.12 to Lismore LEP 2000. With respect to the zoning it is a Deferred Matter under the Lismore LEP 2012, being originally intended to be zoned E3 Environmental Management (and therefore affected by the E-zone Review) The reason for the E zoning is unclear as the land is the cleared backyard of an existing dwelling. It remains zoned 1(d) Investigation under Lismore LEP 2000. The planning proposal is to reclassify the land to operational and include this land in the R1 General Residential zone.

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : The objectives and intended outcomes of the planning proposal are adequately expressed for the proposed amendment in Council's Report for Meeting 9 April 2013.

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

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes in Council's Report for Meeting 9 April 2013.

In relation to part of the provisions, Site 5 - Part of 27 Felicity Drive, East Lismore (Part Lot 17 DP 810811) - for this part of the lot, the zoning is a Deferred Matter under the Lismore LEP 2012 and is zoned 1(d) Investigation under Lismore LEP 2000 . The planning proposal is to reclassify the land to operational and include this land in the R1 General Residential zone

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

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

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

d) Which SEPPs have the RPA identified?

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

Council will need to provide further justification for the reduction in Public Open Space, in particular any benefit resulting from the sale of publicly owned land . It will need to satisfy consistency with S117 Direction 6.2 Reserving Land for Public Purposes

East Lismore and Goonellabah are known for their Koala population and a Koala Plan of Management has been prepared for the area - SEPP 44 Koala Habitat Protection may be relevant, an investigation of the larger sites proposed for residential development may be appropriate.

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

If No, explain : **While Council has provided a Compliance Table for the S117 Directions and SEPPs, further information will be necessary in relation to S117 6.2 Reserving Land for Public Purposes and SEPP 44 Koala Habitat Protection.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council will need to provide amended Lismore LEP 2012 Maps - Land zoning, height of buildings and Lot size maps for public exhibition.**

The location of these parks has been approximately plotted (with a circle) by this office onto the Lismore LEP 2012 zoning maps and attached in the Documents section of this report - see 'Locality' Map.

One map, Site 12 has been removed from the planning proposal following further investigation by Council. Council has advised "20 Gordon Blair Drive is to be removed from the Planning Proposal. This land was reclassified to 'operational' in an amendment to LEP 2000 and is in the B2 zone (with a portion of the lot marked as B3 on the zone map). A proposal to rezone this land to R1 will be included in a Planning Proposal to be considered by Council at its June 2013 meeting."

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has advised that in accordance with the Local Government Act 1993 (LG Act), the planning proposal will be publicly exhibited for 28 days. In accordance with Section 29 of the LG Act and Section 57 of the Environmental Planning and Assessment Act 1979, a public hearing will be arranged following public exhibition of the planning proposal.**

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 : **The planning proposal satisfies the adequacy criteria by:**
1. Providing appropriate objectives and intended outcomes;
2. Providing suitable explanation of the provisions proposed for the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining the community consultation proposed;
5. Providing a project timeline which suggests completion in 6 months; and
6. Completing the evaluation criteria for the delegation of plan making functions.

However, delegation of plan making function is not appropriate in this case as the reclassification may involve Schedule 4 of the Lismore LEP - Part 2 with interests changed. This also requires approval by the Governor. Council has not provided any details and a request to do so is part of the recommendation to the Gateway.

The Director General's approval is also required to rezone lands that are used for public purposes.

In addition, it may be appropriate to extend the project timeline to 9 months to allow for adequate consideration of submissions following public exhibition and public hearing

as the proposal may involve contentious local issues.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Lismore LEP 2012 was published in February 2013. This planning proposal seeks an amendment to the Lismore LEP 2012 and for the Deferred Matter (Site 5), an amendment to the Lismore LEP 2000.

Assessment Criteria

Need for planning
proposal :

During 2010 and 2011 Lismore Council undertook investigations into the Neighbourhood Parks located within the LGA (Lismore Sport and Recreation Plan 2011-2021). Council has advised that this Plan recognised the poor functionality of many of the existing small neighbourhood parks and their inconsistency with Council's adopted DCP. It was determined that the proliferation of very small pocket parks as opposed to a well planned network of strategically located, larger parks (with a 4000sqm minimum area) was creating a maintenance burden for Council with lower recreation benefits.

Neighbourhood Parks have been assessed by Council in accordance with the Lismore Sport and Recreation Plan criteria. Those parks that provided poor open space amenity, were located within residential areas and that met certain criteria for divestment have been included in this planning proposal. Council is of the opinion that the funds that will become available as a result of these lands will provide better and wider community benefit when applied to other parks.

Most of the parks have to be reclassified from Community to Operational and rezoned before any sales can be undertaken.

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Consistency with strategic planning framework :

The Far North Coast Regional Strategy encourages "a network of open space within and between settlements to cater for recreation, nature conservation and social interaction." However, Council has indicated that the parks identified in the planning proposal are all inconsistent with adopted standards for smaller neighbourhood parks and are "underperforming".

The Lismore Sport and Recreation Plan was adopted by Council in October 2011. Council has advised that in the process of identifying the small parks that met the criteria in the Plan, some other parks or portions of larger parks that are not utilised, were also identified. The adopted Plan made recommendations as to how the small and under-used parks could be dealt with. Council has developed a pocket parks divestment strategy to address this matter.

The planning proposal is consistent with Council's Lismore Sport and Recreation Plan. However, Council will need to justify the reduction in Public Open Space and satisfy consistency with S117 Direction 6.2 Reserving Land for Public Purposes. While some justification is accepted from the consistency with Council's Lismore Sport and Recreation Plan, further information should be provided and made available for public exhibition that explains the "significant gain to the greater community" as well as the proposed material to be exhibited that includes "the type of benefits the Council desires".

The Director General's approval is required to rezone lands that are used for public purposes.

Koala Habitat - East Lismore and Goonellabah has a known Koala population and a Comprehensive Koala Plan of Management has been prepared for south east Lismore. - An investigation of any sites greater than 1 hectare for core koala habitat may be appropriate .

While Council has nominated a number of section 117 directions, inconsistencies exist only with direction 6.2 (as above) and 4.4 Planning for Bushfire Protection. This inconsistency will be resolved once Council consults with the Rural Fire Service, as is recommended .

Environmental social economic impacts :

Assessment Process

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

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

Public Authority Consultation - 56(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 :

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Identify any additional studies, if required. :

If Other, provide reasons :

SEPP 44 Koala Habitat Protection - Council will need to ensure that the proposed residential development does not impact upon core koala habitat.

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
Reclassification and Rezoning of Small Parks - Council Meeting Report 2013-04-09.docx	Proposal	Yes
Section 117 Ministerial Directions Compliance Table - Small Parks.doc	Proposal	Yes
State Environmental Planning Policies Compliance Table - Small Parks.doc	Proposal	Yes
Planning Proposal Reclassification and rezoning of Council owned parks.pdf	Proposal	Yes
Planning Proposal Locality Maps for Reclassification and rezoning of Council owned parks.pdf	Map	No
Rezoning and reclassification of Parks Planning Proposal - Pro.doc	Proposal	No
Small Parks Attachment_1_-_Information_checklist DOPI.doc	Proposal	No
Small Parks Attachment_4_-_Evaluation_criteria_for_the_delegation_of_plan_.doc	Proposal	No
Lismore City Council_29-04-2013_Reclassification & Rezoning of Small Parks - s56_.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

- S.117 directions:
- 2.1 Environment Protection Zones**
 - 3.1 Residential Zones**
 - 3.4 Integrating Land Use and Transport**
 - 4.3 Flood Prone Land**
 - 4.4 Planning for Bushfire Protection**
 - 5.1 Implementation of Regional Strategies**
 - 6.1 Approval and Referral Requirements**

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

- 1) The planning proposal be supported subject to conditions;**
- 2) The planning proposal be publicly exhibited in accordance with the department's LEP practice note PN09-003, for a period of 28 days and that a public hearing be arranged in accordance with the requirements of section 29 of the Local Government Act 1993;**
- 3) Council prepare adequate maps (zoning, height of buildings, minimum lot size) for public exhibition;**
- 4) An assessment in relation to the Council's Comprehensive Koala Plan of Management**

2012 (SEPP 44) should be prepared for exhibition for any areas greater than one hectare within the planning proposal to ensure that areas of preferred koala habitat are protected.

5) that the NSW Rural Fire Service be consulted ;

6) Council prepare for exhibition additional information to explain the benefit to the community of reclassification and rezoning of the park areas, and identifying alternative recreation areas ;

7) The Director General (or an officer nominated by the Director General) agree that the inconsistency with s117 Direction 4.4 Planning for Bushfire Protection will be justified once consultation with the Rural Fire Service takes place;

8) The Director General (or an officer nominated by the Director General) note that the inconsistency with s117 Direction 6.2 Reserving Land for Public Purposes remains outstanding and will require justification following preparation and exhibition by Council of the material required by condition 6;

9) the planning proposal be completed in 9 months;

10) Delegation is not to be given to Council as the reclassifications may involve approval by the Governor depending on whether any land interests are to be changed.

11) A copy of land title searches and information regarding any interests to be discharged is to be provided to the department when Council submits the planning proposal for making.

Supporting Reasons :

The proposal by Council to dispose of under-performing pocket parks, rezone them and spend the proceeds on embellishing larger recreation areas is appropriate to proceed if Council is able to provide adequate consultation and accountability in the public interest.

Signature:



Printed Name:

JIM CLARK

Date:

10 May 2013

