

## Planning Services

### Plan Finalisation Report

---

**Local Government Area:** Lismore

**File Number:** OBJ16/04543

**Planning Proposal:** PP\_2016\_LISMO\_001\_00

#### 1. NAME OF DRAFT LEP

Lismore Local Environmental Plan 2012 Amendment No.20 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to land that is identified as "Potential Rural Landsharing Community Development Areas" on the Potential Rural Landsharing Community Development Map.

#### 3. PURPOSE OF PLAN

The draft LEP seeks to enable existing approved rural landsharing communities to be subdivided using Community Title provisions and make minor changes to current rural land sharing provisions relating to road access requirements, impacts on surrounding landuse and the environment and onsite wastewater disposal.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Lismore Electorate. Mr Thomas George MP is the State Member for Lismore.

The Hon Mr Kevin Hogan MP is the Federal Member for Page.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal.
--

<b>NSW Government reportable political donation:</b> A political donation disclosure statement has been provided.
---

#### 5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 24 March 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on:

- 6 June 2017 to extend the time for completion;

- 30 March 2017 to require the preparation of associated mapping; and
- 18 August 2017 to delete the requirement for the preparation of associated maps, require a plain English description of the intent of proposed Clause 6.8A and apply Clause 6.8A only to existing approved communities (**Attachment D**).

The proposal is due for finalisation on 22 December 2017.

## 6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 23 June 2016 to 25 July 2016.

One submission was received from a member of an existing Rural Landsharing Community. The submission raised two planning issues: the need to permit environmental protection works on community land in a Community Title subdivision; and that a requirement for a bitumen sealed public roadway would financially limit the ability for some Rural Landsharing Communities to subdivide.

Council amended the proposed wording of Clause 6.8A(3)(b) to include “environmental protection works” in Clause 6.8A. No change was made in relation to the sealed road access requirement as Council believes it is appropriate the new rural landsharing communities have good rural road access. Council’s responses to these matters are considered appropriate and are supported.

## 7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with Roads and Maritime Services, NSW Rural Fire Service, Department of Primary Industry, Office of Environment and Heritage, Department of Industry Resources and Energy, Civil Aviation Safety Authority and Lismore Airport Management in accordance with the Gateway determination. Council has consulted with these authorities and amended the planning proposal to reflect their comments (see Table 1). No reply was received from the Office of Environment and Heritage.

CASA	No objection other than compliance with inconsistency with S.117 Direction 3.5 required.	S.117 agreement issued on
Lismore Airport Manager	No objection	
DPI (Resources & Energy)	No objection. Proximity to an existing quarry noted and 1000m buffer suggested.	Council will increase DCP buffer from 800m to 1000m upon next review.
DPI (Agriculture)	No objection. Greater consideration of rural land use conflicts suggested.	Proposed LEP clause amended to require consideration of rural land use conflicts. DCP will be amended upon next review to include Land Use Conflict Risk Assessment requirements.

NSW RFS	No objection other than compliance with inconsistency with S.117 Direction 4.4 required.	Noted. Secretary's agreement sought in plan finalisation briefing note.
RMS	No objection	

Table 1. Summary of consultation process with Authorities and Council response.

Council has requested the Secretary's agreement to the inconsistencies of the planning proposal with s.117 Directions 3.5 Development Near Licensed Aerodromes and 4.4 Planning for Bushfire Protection (discussed below).

## POST EXHIBITION CHANGES

As discussed above, Council amended the proposed wording of Clause 6.8A(3)(b) to include "environmental protection works" as a use within association property. The wording of Clause 6.8A has been clarified during the drafting process to ensure the ability to subdivide only applies to rural landsharing approvals in place prior to the clause coming into effect. These changes are considered appropriate and do not require re-exhibition.

## 8. ASSESSMENT

It is considered that the LEP amendment is appropriate and it is recommended that the Minister's delegate make the LEP under section 59(2)(a) of the Act as submitted by Council as the relevant planning authority.

The Council has complied with the conditions of the Gateway determination (as amended), and has adequately addressed issues raised during community and authority consultation.

### Section 117 Directions

Council has consulted with the NSW Rural Fire Service as required by Direction 4.4 Planning for Bushfire Protection and with the Civil Aviation Safety Authority and Lismore Aerodrome Management as required by Direction 3.5 Development Near Licensed Aerodromes. These authorities raised no objection to the planning proposal proceeding (**Attachment E**). Council has now requested that the inconsistencies be considered justified (**Attachment F**).

It is recommended that the Secretary's delegate agree that the inconsistencies with Direction 4.4 and Direction 3.5 are justified in accordance with the terms of the Directions as the relevant authority has confirmed that they raise no objection to the proposal proceeding.

There are no outstanding s117 Directions inconsistencies.

### State Environmental Planning Policies

The draft LEP is consistent with the applicable SEPPs.

## 9. MAPPING

There are no maps associated with the amendment.

## 10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment G**). Council confirmed on 7 December 2017 that it was satisfied with the draft and that the Plan should be made (**Attachment H**)

## 11. PARLIAMENTARY COUNSEL OPINION

Parliamentary Counsel provided the final Opinion on 19 December 2017 that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

## 12. RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP because:

- the proposal will meet an identified need to allow existing rural landsharing communities to attain a more readily accepted form of title.
- the proposal is consistent with the strategic planning framework.



20/12/17

**Tamara Prentice**  
Team Leader, Northern



21/12/17

**Craig Diss**  
Acting Director Regions, Northern  
Planning Services

Contact Officer: Heidi Naylor  
Planning Officer, Northern  
Phone: 6641 6604