

Lismore LEP 2012 - Rural Landsharing Community Development Provisions

Proposal Title : Lismore LEP 2012 - Rural Landsharing Community Development Provisions

Proposal Summary : The proposal seeks to amend the Lismore LEP 2012 through a revision to the provisions and associated maps which relate to Rural Landsharing Community Development.
These amendments include:

- Updating the Potential Rural Land Sharing Community Development Map to be consistent with the endorsed Lismore Growth Management Strategy 2015-2035;
- Delete Clause 6.8(3)(c), which is a provision that controls where Rural Landsharing Community Development is permitted and is now superfluous given the updated map; and
- Insert a new clause that permits community title subdivision of existing and future Rural Landsharing Community Development.

PP Number : PP_2016_LISMO_001_00 Dop File No : 16/04543

Proposal Details

Date Planning Proposal Received :	17-Mar-2016	LGA covered :	Lismore
Region :	Northern	RPA :	Lismore City Council
State Electorate :	LISMORE	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : All land identified under the revised Potential Rural Land Sharing Community Development Map

DoP Planning Officer Contact Details

Contact Name : Luke Blandford
Contact Number : 0266416612
Contact Email : luke.blandford@planning.nsw.gov.au

RPA Contact Details

Contact Name : Paula Newman
Contact Number : 0266250525
Contact Email : paula.newman@lismore.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Paul Garnett
Contact Number : 0266416607
Contact Email : paul.garnett@planning.nsw.gov.au

Lismore LEP 2012 - Rural Landsharing Community Development Provisions

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
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) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications 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 :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.		

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 objectives and intended outcomes of the proposal are clearly stated in the proposal. The proposal seeks to include provisions and maps under the Lismore LEP 2012 that facilitate new Rural Landsharing Community Development on suitable land as well as permit subdivision of new or approved Rural Landsharing Community Development.

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

Is an explanation of provisions provided? Yes

Comment : The Planning Proposal provides a plain English description of the proposed LEP provisions. It confirms that the objectives and intended outcomes of the proposal will be achieved threefold:

1. Updating the Potential Rural Land Sharing Community Development Map to be consistent with the endorsed Lismore Growth Management Strategy 2015-2035;
2. Deleting Clause 6.8(3)(c), which is a provision that controls where Rural Landsharing Community Development is permitted and is now superfluous given the updated map; and

3. Inserting a new clause that permits community title subdivision of existing and future Rural Landsharing Community Development.

A discussion of each proposed LEP amendment is provided under the 'Assessment' section of this Planning Team Report.

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

1.1 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

4.3 Flood Prone Land

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

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

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

SEPP (Affordable Rental Housing) 2009

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal includes the revised Potential Rural Land Sharing Community Development Map Sheets. Council has also prepared a map that shows the current and proposed Potential Rural Land Sharing Community Development areas on a single map sheet. Council has indicated that these additional maps will be exhibited alongside the Planning Proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The Planning Proposal indicates that community consultation will be undertaken and nominates a 28 day timeframe for this consultation period.

A 28 day community consultation period is considered appropriate. It is not defined as low impact, given that it relates to a policy amendment that will affect the wider LGA.

The proposal nominates that consultation also be undertaken with the following Government agencies:

- Office of Environment and Heritage
- NSW Rural Fire Service
- Roads and Maritime Services
- Department of Primary Industries
- Department of Industry Resources and Energy
- CASA; and
- Lismore airport management

It is considered appropriate that the Gateway determination require consultation with these agencies and public authorities.

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 generally satisfies the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes;
2. Providing an explanation of the provisions;
3. Providing a justification for the proposed amendments;
4. Providing maps which suitably identify the proposed Potential Rural Land Sharing Community Development areas;
5. Outlining that community consultation will be undertaken; and
6. Providing a project timeframe which suggests completion within 7 months.

Timeline

- The Planning Proposal includes a project timeline which estimates that the Plan could be finalised by October 2016 (7 months). It is considered that a 9 month time frame would be appropriate. This does not restrict Council from finalising the LEP amendment sooner.

Delegation.

- Council has accepted plan making functions and has confirmed that it seeks delegation to finalise the subject proposal. It is recommended that an Authorisation for the execution of delegation be issued to Council given that the matter relates to a local planning matter.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Lismore LEP 2012 is a Principal LEP and came into effect on 22 February 2013. The Planning Proposal seeks to amend this planning instrument.

Assessment Criteria

Need for planning proposal :

The Planning Proposal is a direct response to Council's endorsed Local Growth Strategy. A discussion regarding each proposed amendment is provided below.

1. Updating the Potential Rural Land Sharing Community Development Map
The Lismore LEP 2012 includes provisions and maps which permit Rural Landsharing Community Development.

The current Potential Rural Land Sharing Community Development Map under the LEP identifies more than 19,000 hectares of land as being potentially suitable for Rural Landsharing Community Development.

Council has recently adopted the Lismore Growth Management Strategy 2015-2035, which has been endorsed by the Department. The Strategy identifies that approximately 850 hectares of land is required for Rural Landsharing Community Development in the Lismore LGA for the next 20 years. The Strategy also contains a map, which unlike the current LEP map, identifies only 3,900 hectares of land throughout the LGA as being suitable for Rural Landsharing Community Development.

Council in this regard is seeking to update its LEP mapping to be consistent with the mapping under its endorsed Growth Strategy. Council recognises that whilst more land has been identified above current demands, the mapping will provide diversity and flexibility for where these communities may occur.

The proposed LEP mapping varies slightly to what appears under the Local Growth Management Strategy. Council has removed land identified as being potentially suitable where it adjoins an existing rifle range. This will assist in minimising potential for land use conflict and is not inconsistent with the endorsed Strategy.

2. Deleting Clause 6.8(3)(c)

Clause 6.8(3)(c) confirms that Council may grant consent to Potential Rural Landsharing Community Development if it is satisfied that 'the lot is within 4 kilometres (by road) of services, such as schools, shops or community facilities'.

Council has determined that this clause is unnecessary given the Rural Landsharing Community Development Map identifies the land areas which are deemed to be suitable. Council also considers that the other heads of consideration under Clause 6.8 and Council's DCP are adequate for determining the suitability of any proposed Rural Landsharing Community Development.

3. Permitting Community Title Subdivision

Subdivision of Rural Landsharing Community Development is currently prohibited under the Lismore LEP 2012.

Consistent with Council's endorsed Growth Strategy, the proposal seeks to insert a new clause that would permit existing / approved and new Rural Landsharing Community Development to be subdivided under a 'Community Title Scheme'. There would be no minimum lot size requirement for this subdivision type.

A draft model clause has been appended to the Planning Proposal and is considered suitable for exhibition purposes. It will allow the community and public agencies to understand Council's intended LEP provisions to achieve the objectives of the proposal.

Allowing 'community title' subdivision within these communities provides opportunity for individual title ownership and therefore better private asset management. It does not raise any additional merit or land use considerations for new or existing Rural Landsharing Community Development.

There is uncertainty how a Rural Landsharing Community Development will be defined once it is subdivided, given that its definition is '3 or more dwellings on a lot'. This is not considered to be a constraint however for the proposed LEP amendments.

During the preparation of the Draft Local Growth Strategy, the Department discussed with Council that permitting community title subdivision of Rural Landsharing Communities

Lismore LEP 2012 - Rural Landsharing Community Development Provisions

could promote this form of development and in turn increase rural land use conflict and demand for Council infrastructure into more remote locations.

Council, as the local planning authority, has resolved to permit subdivision of Rural Landsharing Communities and considers that potential impacts can be appropriately reviewed and managed through the development assessment process.

Consistency with
strategic planning
framework :

FAR NORTH COAST REGIONAL STRATEGY (FNCRS)

The Regional Strategy endorses the preparation of a Local Growth Management Strategy to meet targets set for future settlement patterns. The Regional Strategy states that future rural residential land will only be released in accordance with a Growth Management Strategy agreed to by Council and the Department.

From a land use and development impact perspective, Rural Landsharing Community Development and Rural Residential Development are similar. The proposal is consistent with Council's endorsed Growth Management Strategy and is therefore considered to be consistent with the aims and requirements of the Regional Strategy.

DRAFT NORTH COAST REGIONAL PLAN

The Draft North Coast Regional Plan is currently on public exhibition. Once adopted this Plan will replace the Far North Coast Regional Strategy and will guide strategic planning across the North Coast over the next 20 years.

The Draft Plan includes a range of actions for considering LEP amendments. The key actions specific to this proposal relate to: identifying and protecting areas of high environmental values; permitting complementary uses in rural zones; focusing growth to the least sensitive and constrained areas; and providing sufficient housing supply.

Of particular note the Draft Plan contains requirements that new rural residential zonings are confined to areas outside of the Coastal Area and or in an approved Local Growth Strategy.

The proposal is consistent with this Draft Plan. It is in accordance with an endorsed Growth Strategy and will facilitate Rural Landsharing Community Development on suitable land throughout the Lismore LGA.

CONSISTENCY WITH LOCAL STRATEGIES

As discussed throughout this Planning Team Report, the proposal is consistent with the endorsed Lismore Growth Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES

No inconsistencies with the provisions under the SEPPs have been identified.

The Rural Landsharing Communities SEPP does not apply to Lismore. This is because provisions relating to this land use have historically been contained and managed under Council's local planning instrument.

The proposal is consistent with the Rural Planning Principles under the Rural SEPP given that it will facilitate rural lifestyle opportunities on suitable rural land.

In regard to SEPP 55, Council is satisfied that site contamination can be reviewed through the DA process. The planning proposal notes that the Potential Rural Landsharing Community Development Map identifies land that is more than 200m distance from any known cattle tick dip sites.

Key habitat areas were excluded from the land mapped under the revised Potential Rural Landsharing Community Development Map. Protection of Koala habitat or the requirement for a Plan of Management in accordance with SEPP 44 can be reviewed at DA stage.

SECTION 117 DIRECTIONS

The following Directions are applicable to the proposal.

1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage

Conservation, 2.4 Recreational Vehicle Areas, 3.2 Caravan Parks and Manufactured Homes Estates, 3.3 Home Occupations, 3.5 Development Near Licences Aerodromes, 3.6 Shooting Ranges, 4.3 Flood Prone Land, 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, 6.2 Reserving Land for Public Purposes and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is considered to be inconsistent or not yet justified with Directions 3.5 and 4.4.

Direction 3.5 Development Near Licensed Aerodromes

The proposal nominates land suitable for Rural Landsharing Development that is within 4 kilometres of the Lismore Airport. Whilst the Proposal's consistency with this Direction could be justified because it is consistent with the endorsed Lismore Growth Strategy, Council has nominated that it will consult with the relevant aerodrome management bodies prior to seeking the Secretary's agreement to this Direction.

Direction 4.4 Planning for Bushfire Protection

The revised Potential Rural Landsharing Community Development Map excludes all land that has been mapped as being bushfire prone. It is recognised however that there may be existing Rural Landsharing Community Development within bushfire prone areas and the proposal will facilitate this land to be subdivided. Consistency with the Direction is currently unresolved. Consultation with the NSW Rural Fire Service would be required post Gateway to satisfy the requirements of the Direction.

Environmental social
economic impacts :

The proposal will guide Rural Landsharing Development throughout the Lismore LGA and provide better private asset management within these communities by permitting subdivision.

The revised Potential Rural Landsharing Community Development Map identifies land that is not subject to natural hazards (flooding, bushfire, etc.), is located within proximity to necessary infrastructure and social services and is not mapped as regionally or State significant farmland.

It is acknowledged that existing communities may be located on significant farmland or land that is subject to natural hazards. Responses to these natural hazards could be appropriately considered through the development approval process.

Potential impacts on areas or items of cultural significance can be reviewed on a site specific basis under any future DA process.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			

Lismore LEP 2012 - Rural Landsharing Community Development Provisions

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
1. Planning Proposal Multiple Occupancy to Community Title.pdf	Proposal	Yes
2. LEP Maps - Multiple Occupancy to Community Title.pdf	Map	Yes
3. Existing LEP LGA wide Map of Potential RLSC.pdf	Map	Yes
4. Proposed_Potential_Rural_Landsharing_Community.pdf	Map	Yes
5. Draft LEP 2012 RLSC Provisions for MO to Community Title - with formulas.pdf	Proposal	Yes

Planning Team Recommendation

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

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
- 4.3 Flood Prone Land
- 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

Additional Information :

It is **RECOMMENDED** that the Acting Director Regions, Northern as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Lismore Local Environment Plan 2012 to amend the written provisions and associated maps which relate to Rural Landsharing Community Development should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the Planning Proposal must be made publicly available for 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 (Planning and Infrastructure, 2013)'.

2. Consultation is required with the following agencies and public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- (a) Office of Environment and Heritage
- (b) NSW Rural Fire Service
- (c) Roads and Maritime Services
- (d) Department of Primary Industries
- (e) Department of Industry Resources and Energy
- (f) Department of the Commonwealth responsible for aerodromes; and
- (g) Lismore airport management

3. 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).

4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

5. Delegation to finalise the Plan should be issued to Council.

6. Section 117 Directions - It is recommended that:

- (a) Consultation is required in relation to s117 Direction 3.5 Development Near Licensed Aerodromes with the Department of the Commonwealth responsible for aerodromes and Lismore airport management; and
- (b) Consultation is required in relation to s117 Direction 4.4 Planning for Bushfire Protection with the NSW Rural Fire Service.
- (c) The Secretary's delegate can be satisfied that the Planning Proposal is consistent with all other relevant s117 Directions.

7. The Planning Proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons : The reasons for the above recommendations for the Planning Proposal are as follows:.

- The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.

Signature:



Printed Name:

PAUL CARVER

Date:

24/3/16

*Acting Team Leader
Local Planning*