

Planning Services

Gateway Determination Report

LGA	Lismore
RPA	Lismore City Council
NAME	Lismore General Housekeeping Amendment (4 th Round)
NUMBER	PP_2017_LISMO_006_00
LEP TO BE AMENDED	Lismore Local Environmental Plan 2012
ADDRESS	Various land parcels within Lismore LGA
DESCRIPTION	Various land parcels within Lismore LGA
RECEIVED	20/09/2017
FILE NO.	17/12312
QA NUMBER	qA419859
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to amend the Lismore Local Environmental Plan (LEP) 2012 by correcting minor map anomalies, updating Schedules 1 and 5 and amending the Land Use Tables for the R3 and E3 zones.

Site Description

Item A – 84 and 90 Henson Road, and 350A Tregeagle Road, Wyrallah;
 Item B – 60 Kruseana Avenue and adjacent road reserve, Goonellabah;
 Item C – 22 and 23 Pindari Crescent and adjacent road reserve, Goonellabah;
 Item D – 9 and 11 Willow Tree Drive, Chilcotts Grass;
 Item E – 44 Kadina Street, and 124 Oliver Avenue, Goonellabah and adjacent road reserve;
 Item F – 156 and 156A Terania Street, 1 Bouyon Street and the adjacent Bouyon Street road reserve; 5, 7, 9, 11, 13 and 15 New Street and 2 Tweed Street, North Lismore;
 Item G – 97 Pineapple Road, Goonellabah;
 Item H – Part proposed Dunoon Dam site including 163A Fraser Road, and part 57B Ashlin Road, Whian Whian;
 Item I – 355 and 357 Dunoon Road and adjoining road reserve, Tullera
 Item J – 11 and 9 Main Street, Clunes;
 Item K – Land Use Table: R3 Medium Density Residential and E3 Environmental Management.

Summary of Recommendation

The proposed housekeeping amendment should proceed subject to a number of conditions. The housekeeping planning proposal is supported as the minor map corrections,

amendments to Schedules and Land Use Tables will ensure an accurate and current LEP for Lismore City Council, which will provide confidence and clarity in the planning controls.

PROPOSAL

Objectives or Intended Outcomes

The statement of objectives describes the intention of the planning proposal. The proposal seeks to undertake various minor 'housekeeping' amendments and map changes to Lismore LEP 2012.

Explanation of Provisions

The explanation of provisions adequately addresses the intended changes to Lismore LEP 2012. The planning proposal seeks to:

- correct various minor anomalies to the Land Zoning maps with consequential amendments to the Minimum Lot Size and Height of Building maps;
- update Schedule 1 Additional Permitted Uses and corresponding maps;
- update Schedule 5 Environmental Heritage and corresponding map;
- amend clause 5.1(2) Relevant acquisition authority;
- amend Land Reservation Acquisition maps to reflect recent land acquisitions and proposed acquisitions;
- amend the Land Use Tables to rectify inconsistencies between SEPP (Exempt and Complying Development Codes) 2008 and LEP 2012 regarding *home-based child care* in R3 Medium Density Residential and E3 Environmental Management zones.

Mapping

The planning proposal includes current and proposed Land Zoning (LZN), Minimum Lot Size (MLS), Height of Building (HOB), Heritage (HER), Additional Permitted Uses (APU) and Land Reservation Acquisition (LRA) maps, which adequately reflect the proposed amendments. These maps are suitable for exhibition purposes.

Amendments to the LZN, MLS, HOB, HER, APU and LRA maps are to be prepared in accordance with the Standard Technical Requirements for Spatial Datasets and Maps prior to finalisation of the LEP.

NEED FOR THE PLANNING PROPOSAL

A periodic review of Lismore LEP 2012 has highlighted the need for another round of general amendments to correct mapping and instrument anomalies. The amendments are generally summaries as:

Map Anomalies

Items A – F all relate to rezoning land due to adjustments to lot boundaries and road reserves. Each rezoning also includes consequential amendments to minimum lot size and/or Height of Building restrictions. Item D and E include changes to the Land Reservation Acquisition maps. The rezonings are mainly centred around changes to lot boundaries to align with the cadastre boundaries, rezoning road reserves to be consistent with the adjacent land or due to subdivision of land. These adjustments do not result in any significant increase in development potential in the subject lands.

Item A: adjust boundary between RU1 Primary Production and W1 Natural Watercourses to reflect cadastre boundaries as revised by NSW Land & Property Information (LPI);

Item B: Adjust boundaries to zone all of the subject land to RE1 Public Recreation. R1 General Residential zone is applied to the road reserve;

Item C: Applying a RE1 Public Recreation zone to the subject land better suits the current and future use of the land (Tucki Tucki Creek Reserve) than the existing residential zone;
Item D: adjust boundaries between R1 General Residential and RE1 Public Recreation to reflect cadastre boundaries in accordance with recent subdivision;
Item E: adjust R1 General Residential and RE1 Public Recreation boundaries to suit recent subdivision;
Item F: adjust RE1 Public Recreation and RU2 Rural Landscape to reflect correct boundaries which have been revised by LPI.

All changes to the maps proposed by the planning proposal are considered to be appropriate.

Acquisition of land

Items G & H relate to the acquisition of land.

Item G relates to the acquisition of land for a future bypass road between Bangalow Road and the Bruxner Highway. The need for a road corridor was identified in LGA wide road studies, and a compensation agreement has been entered into with the landowner. This area is to be added to the Land Reservation Acquisition map. This addition will also require an amendment to Clause 5.1(2) to include the Council as the 'Authority of the State' that can acquire '*Zone RU1 Primary Production and marked 'Arterial road'*'. This is considered an appropriate action.

Item H relates to the removal of notation on the "Land Reservation Acquisition Map' as the potential future water source boundaries for the proposed Dunoon Dam have been amended and this area is no longer required for acquisition for the dam. This is considered an appropriate action.

Additional Permitted Uses

Item I is amending Schedule 1 to omit Clause 3 as the subdivision which it enabled has been completed. The Additional Permitted Uses maps will also be amended to omit this location. An associated amendment to the minimum lot size map for this location from partly 20ha and partly 40ha to 5000m² will reflect the approved subdivision. This is considered to be appropriate.

Heritage

Item J- Changes to the Heritage Map and associated Schedule 5 Environmental Heritage list in Lismore LEP 2012 to reflect the correct property description of the subject lot (due to a boundary adjustment). This change will ensure that the realigned boundary aligns with the LEP map and is considered to be appropriate.

Land Use Tables

Item K- Proposes changes to the R3 Medium Density Residential and E3 Environmental Management Land Use Tables for '*home-based child care*' to require consent. The SEPP (Educational Establishments and Child Care Facilities) 2017 permits *home-based child care* as exempt development on all zones if not carried out on bushfire prone land. The current R3 and E3 land use tables enable this development without consent, but did not consider bushfire prone land, considering the SEPP exempt provisions, these uses are proposed to be enabled with consent.

The planning proposal references the *SEPP (Exempt and Complying Development Codes) 2008* as the enabling SEPP. The SEPP (Educational Establishments and Child Care Facilities) 2017 came into force on 1 September 2017 and is now the enabling instrument. This SEPP reference does not change the intent of this housekeeping amendment but does

need to be correctly referenced in the planning proposal prior to exhibition. A condition will be included requiring this reference to be updated.

All changes to the LEP proposed by the planning proposal are considered to be appropriate.

STRATEGIC ASSESSMENT

Regional

The proposal is consistent with the North Coast Regional Plan 2036 as the general amendments are restricted to developed areas, with no reduction of important agricultural land and are minor in nature.

Local

The proposal is consistent with Council's Growth Management Strategy (GMS) 2015-35, Imagine Lismore (Community Strategic Plan 2017-2027) and the one year Action Plan as it ensures the LEP is continually amended to suit community and development industry needs.

Section 117(2) Ministerial Directions

The planning proposal is consistent with s117 Directions 1.1 Business and Industrial Lands, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zone, 2.3 Heritage Conservation, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrated Land Use & Transport, 4.1 Acid Sulfate Soils, 4.2 Mine Subsidence & Unstable Lands, 4.3 Flood Prone Land, 5.3 Farmland of State and Regional Significance on the NSW Far North Coast, 5.10 Implementation of Regional Plans, 6.1 Approval & Referral Requests and 6.2 Reserving Land for Public Purpose.

The planning proposal is inconsistent with the following:

3.1 Residential Zones

The direction is applicable as Item C proposes to alter an existing residential zone by rezoning the subject land from R1 General Residential to RE1 Public Recreation which could reduce the permissible residential density of the land, which would make the planning proposal inconsistent with the direction. The direction provides that a proposal may be inconsistent with the direction if the inconsistency is of minor significance. The R1 General Residential zone is unlikely to be suitable for residential development due to site constraints, therefore there would be no reduction in permissible residential density of the area. The inconsistency can be classed as minor significance.

4.4 Planning for Bushfire Protection

This direction is applicable as Item A, C, D, E and G have been mapped as bushfire prone. Consultation with the NSW Rural Fire Service is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with this direction remains unresolved.

5.3 Farmland of State & Regional Significance on the NSW Far North Coast

Item D – 9 and 11 Willow Tree Drive, Chilcotts Grass is mapped as Regionally Significant Farmland. However, the direction does not apply as the land is contained within the mapped urban growth area in the North Coast Regional Plan 2036. As such this proposal is considered consistent with this Direction. The planning proposal will need to be updated to reflect this consistency prior to community consultation.

5.10 Implementation of Regional Plans

This Direction requires the planning proposal to be consistent with the North Coast Regional Plan 2036. While the proposals consistency with the plan has been discussed, and is accepted, this has not been included in the s117 direction table. A condition will be included requiring the table to be updated to reflect the application of 5.10.

6.2 Reserving Land for Public Purposes

The direction provides that a planning proposal shall not create or reduce existing zones or reservations of land for public purposes without the approval of the relevant public authority and the Secretary. The agreement of the public authority (Council) is implicit in the planning proposal, however the agreement of the Secretary has not been sought. The proposal includes the following:

Item	Current	Proposed
B	RE1	R1
C	R1	RE1
D	W2	RE1
E	RE1 / R1	R1 / RE1
F	W2	RE1

The direction provides that a proposal may be inconsistent with the direction if the inconsistency is of minor significance. It is considered that the inconsistency of the proposal due to the absence of the Secretary's agreement is of minor significance since the areas to be rezoned are limited to road reserves and slight adjustments to boundaries to align with the cadastre after subdivision. It is therefore considered that the inconsistency is justified in accordance with the terms of the direction.

Item H – Part proposed Dunoon Dam site including 163A Fraser Road, and part 57B Ashlin Road, Whian Whian intends to remove the acquisition reservation over part of the proposed dam site. This is in accordance with Clause 7 of Direction 6.2.

State Environmental Planning Policies

The proposal is considered to be consistent with all applicable SEPP's. As discussed above SEPP (Educational Establishments and Child Care Facilities) 2017 applies to the Item K which requires adjustments to the Land Use Tables.

SITE SPECIFIC ASSESSMENT

Social / Economic

The planning proposal involves minor housekeeping matters and is therefore unlikely to create any major negative social or economic impacts.

Environmental

The planning proposal involves minor housekeeping matters and is therefore unlikely to create any major negative environmental impacts.

Items A, C, D, E and G are all identified as being bushfire prone as discussed above. Consultation with the NSW Rural Fire service will be undertaken as part of the community consultation process.

CONSULTATION

Community

The planning proposal has indicated a 28 day community consultation period. This is considered acceptable.

Agencies

As some of the land has been identified as bushfire prone and to satisfy s117 directions regarding bushfire, referral to the NSW Rural Fire Service (RFS) will be required as part of the consultation process. Consultation with RFS is required after a Gateway determination is issued and before public exhibition.

Preliminary consultation has occurred with Office of Environment and Heritage (OEH) during the preparation of the planning proposal. OEH did not raise any specific issues with the proposal but provided general comments to consider. Consultation with the Local Aboriginal Land Council (LALC) was suggested to address Aboriginal cultural values.

As the proposal indicates, referral to OEH is required as part of the consultation process. Consultation with OEH is required after a Gateway Determination is issued and before public exhibition.

The planning proposal has not indicated whether there are any potential Aboriginal cultural heritage issues with any of the sites. Consultation with the LALC is required as part of the consultation process post Gateway.

TIMEFRAME

The planning proposal includes a project time line which suggests a completion time within 12 months as the proposal is of a minor nature. It is recommended that the 12 month period be accepted.

DELEGATION

As the proposal deals with only matters of local significance, it is recommended that an authorisation to exercise plan making delegation be issued to Council in regard to this matter.

CONCLUSION

The preparation of a housekeeping planning proposal is supported as it:

- allows for minor map anomalies to be corrected;
- updates Additional Permitted Uses and Heritage Schedules; and
- ensure the Land Use Tables in the LEP to be consistent with relevant SEPP's.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions 3.1 Residential Zones, and 6.2 Reserving Land for Public Purposes are minor; and
2. Note that the consistency with Section 117 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to community consultation to:
 - a) update Table 1 - remove reference to Item I maps and add reference to Item G maps;
 - b) change the reference from SEPP (Exempt and Complying Development Code) 2008 to SEPP (Educational Establishments & Child Care Facilities) 2017;
 - c) correct the Lot Size Map reference for Item F maps from LSN to LSZ;
 - d) update Appendix 3 (2.3 Heritage Conservation) to reflect the correct alphabetic label (Item J);
 - e) update Appendix 3 to reflect the consistency with 5.3 Farmland of State and Regional Significance on the NSW Far North Coast;
 - f) update Appendix 3 to reflect s117 Direction 5.10 Implementation of Regional Plans.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - Any impacted Local Aboriginal Land Councils
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.

T. Prentice

9/11/17

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[Signature]

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