

Lismore LEP 2012 – 95 Breckenridge Street, Wyrallah.

Proposal Title : Lismore LEP 2012 – 95 Breckenridge Street, Wyrallah.

Proposal Summary : The planning proposal seeks to amend Lismore LEP 2012 by rezoning part of Lot 1 DP 747721, 95 Breckenridge Street, Wyrallah from RU1 Primary Production to R5 Large Lot Residential and applying a 3000m2 minimum lot size and 8.5m maximum building height to that part of the land being rezoned R5, to enable the land to be developed for rural residential purposes.

PP Number : PP_2016_LISMO_002_00 Dop File No : 16/04434

Proposal Details

Date Planning Proposal Received : 18-Mar-2016 LGA covered : Lismore

Region : Northern RPA : Lismore City Council

State Electorate : LISMORE Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 95 Breckenridge Street

Suburb : Wyrallah City : Postcode : 2480

Land Parcel : Lot 1 DP 747721

DoP Planning Officer Contact Details

Contact Name : Paul Garnett

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RPA Contact Details

Contact Name : Paula Newman

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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) :	1.30	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	2
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 : **The proposal seeks to rezone approximately 1.3 hectares of land from RU1 Primary Production to R5 Large Lot Residential. It is estimated that the rezoning will yield an additional two rural residential allotments.**

Adequacy Assessment

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

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

Comment : **The Statement of objectives describes the intention of the planning proposal. The proposal intends to amend Lismore LEP 2012 to permit rural residential development over part of the land.**

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. The proposal intends to amend the Land Zoning Map, Lot Size Map, and Height of Buildings Map, to apply appropriate zones and other planning controls to the land.**

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
4.1 Acid Sulfate Soils
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 contains maps which adequately show the subject land, the current zones and the proposed zones, minimum lot sizes and maximum building height. These maps are adequate for exhibition purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal nominates a community consultation period of 28 days.

In accordance with "A Guide to Preparing Local Environmental Plans" (the 'Guide'), it is considered that the planning proposal is a low impact planning proposal as it is consistent with the pattern of surrounding land use zones since it is a new release area and inconsistencies with the strategic planning framework are of minor significance. The proposal does not reclassify land or present infrastructure servicing issues. The Guide also suggests written notification to the affected and adjoining land owners. It is therefore considered that a community consultation period of 14 days is adequate and affected and adjoining properties should be notified in writing. However there is no impediment to Council conducting a longer community consultation.

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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in September 2016. To ensure the RPA has adequate time to complete the Aboriginal and European cultural heritage assessment, exhibition, reporting, and legal drafting, it is recommended that a time frame of 12 months is appropriate.

Delegation.

The RPA has requested an Authorisation to exercise delegation for this proposal. An Evaluation Criteria For the Delegation of Plan Making Functions has been provided. The proposal is considered to be of local planning significance since it applies to a single lot of land identified for rural residential purposes by the strategic planning framework, particularly the Far North Coast Regional Strategy and Councils Growth Management Strategy which has been approved by the Department. It is recommended that an Authorisation for the execution of delegation be issued to the RPA 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
6. Completing the evaluation criteria for the delegation of plan making functions.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Lismore LEP 2012 is in force. This planning proposal seeks an amendment to the Lismore LEP 2012.

Assessment Criteria

Need for planning
proposal :

The proposal results from the outcomes of Council's Growth Management Strategy 2015-2035. This Strategy identified land at Wyrallah for potential large lot residential development. The owners of the subject land have initiated a planning proposal for the rezoning of Lot 1 Breckenridge Street, Whyralla in accordance with this strategy.

The subject land is two hectares in size and is mostly open grassland with scattered shade trees. A single dwelling exists on the lot. Approximately 1.3 hectares of this cleared land is proposed to be rezoned to R5 Large Lot Residential to enable the creation of an additional two rural residential allotments with a minimum lot size of 3000m².

An area of approximately 7000m² in the south of the site constitutes a rocky gully covered by camphor laurel trees. A high voltage power line also runs over the rear of the site. It is proposed that this part of the land will retain its RU1 Primary Production zone, this is considered to be appropriate as the primary use of the land is currently rural and Council can consider the suitability of applying an environmental zone when it considers the appropriateness of other vegetated land for an environmental zone as part of a separate planning proposal.

The proposal to rezone the land is the best means of achieving the intent of the proposal which is to enable part of the land to be developed for rural residential purposes.

Consistency with strategic planning framework :

Far North Coast Regional Strategy (FNCRS).

The proposal is consistent with the actions and outcomes in the FNCRS. The FNCRS states that rural residential development will be located close to centres with an adequate level of services. The proposal is located 200m east of Wyrallah village and immediately south of a recently established rural residential estate. The site has road frontage and reticulated water available. An on-site waste water management system will be necessary however this is appropriate for rural residential development. Council's Section 94 contributions plan applies to the site and contributions for public infrastructure will be required for the additional rural residential lots.

The FNCRS requires that new rural residential development will only be permitted in non-coastal areas and then only in accordance with an approved local growth management strategy. The subject land is not located within the coastal area and is identified for rural residential purposes in Council's Growth Management Strategy 2015-2035.

Draft North Coast Regional Plan

The proposal is consistent with the Draft North Coast Regional Plan (the 'Draft RP'). The Draft RP provides that new rural residential development shall only be permitted where it is located outside of the coastal area and in accordance with an approved strategy. The proposal is consistent with these requirements as the site is not located within the coastal area and has been identified for rural residential purposes by Council's Local Growth Management Strategy 2015-2035.

Consistency with Council's Local Strategies.

Lismore's Local Growth Management Strategy 2015-2035 (the 'LGMS')

The proposal is consistent with the LGMS. The LGMS identifies that there is currently 5-6 years supply of R5 zoned land remaining in the Lismore LGA. An additional 438 hectares of R5 zoned land is projected to be required over the 20 year life of the LGMS. The LGMS identifies part of the subject land for potential large lot residential purposes. The area of the site proposed to be zoned R5 is consistent with the mapped potential large lot residential land in the LGMS. The LGMS was approved by the Department's Executive Director, Regions on 11 August 2015.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. Many SEPPs apply to the subject land and the proposal is not inconsistent with these SEPPs.

SEPP 44 Koala Habitat Protection

The proposal states that an ecological assessment of the site concluded that there is no significant koala habitat on the site.

SEPP 55 Remediation of Land

The proposal states that a preliminary contaminated land assessment has been undertaken. The assessment concludes that the site has no history of land contamination from past uses and soil analysis did not identify any soil contamination that would prevent the site from being used for rural residential purposes.

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) contains Rural Planning Principles to guide development on rural land. It is considered the proposal is consistent with the Rural Planning Principles. The land is not identified as State or regionally significant farmland. The use of the site for rural residential purposes is not considered to have the potential to significantly increase land use conflict with nearby agricultural land uses. The use of the land for rural residential purposes is also consistent with an approved growth management strategy.

The proposal is otherwise consistent with State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 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.

Of the above s117 Directions the proposal is considered to be potentially inconsistent with Direction 1.2, 2.3, 3.1, and 4.4.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to a residential zone. The planning proposal seeks to rezone part of the subject land from RU1 Primary Production to R5 Large Lot Residential. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The land to be zoned R5 is identified in the Lismore Growth Management Strategy 2015-2035 as potential large lot residential land. The Lismore Growth Management Strategy 2015-2035 was approved by the Executive Director, Regions in August 2015. It is considered that the inconsistency of the proposal with the direction is justified by an approved strategy and therefore has been justified in accordance with the terms of the direction.

Direction 2.3 Heritage Conservation is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of items and places of heritage significance. The proposal indicates that preliminary investigations into Aboriginal and European Heritage have been undertaken on the site and have revealed that there are no items of heritage significance on the land. However Council has indicated in its planning proposal that further assessment will be required post Gateway determination. It is therefore considered that any inconsistency of the proposal with this direction cannot be resolved until the additional heritage assessment has been completed.

Direction 3.1 Residential Zones is relevant to the proposal. The Direction provides that a planning proposal must reduce the consumption of land on the urban fringe. The proposal seeks to rezone approximately 1.3ha of land to large lot residential on the land currently zoned rural.

The direction provides that a proposal may be inconsistent with this direction if it is justified by a strategy. The land to be zoned residential is identified as potential large lot residential land in the Lismore Growth Management Strategy 2015-2035 which was approved by the Executive Director, Regions in August 2015. It is therefore considered that the inconsistency of the proposal with the direction has been justified in accordance with the terms of the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The Direction provides that a planning proposal must not propose intensification of land uses on land identified as having a probability of containing acid sulfate soils unless an acid sulfate soil study has been prepared.

The site is identified on the Lismore LEP 2012 Acid Sulfate Soils map as being Class 5 acid sulfate soils. The ASSMAC Planning Guidelines 1988 state that Class 5 land does not have a probability of containing acid sulfate soils and in effect constitutes a buffer to the other classes of land which have a probability of containing acid sulfate soils. Investigations on the subject land for on-site effluent disposal suitability and contamination have confirmed there are no potential acid sulfate soils on the site. The proposal is therefore not considered to be inconsistent with this direction.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Areas of the subject land are identified as being bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

An ecological assessment has been undertaken for the subject land. The assessment identified the presence of two specimens of a threatened species (Thorny Pea) within the camphor laurel forest in the south of the site. Since the camphor laurel forest is not proposed to be rezoned or developed it is not expected that the proposal will have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

The subject land is not flood prone and is not located within a drinking water catchment. The land is not identified as state or regionally significant farmland in the Northern Rivers Farmland Protection Project Final Recommendations 2005.

The proposal will have a positive economic and social impact through the release of land for residential development. Consistent with other land identified in the Lismore Growth Management Strategy 2015-2035 the land is located within 2km of a village to ensure residents can connect to existing social and community services such as the Wyrallah school and hall.

Agency Consultation.

The planning proposal indicates that Council will consult with the following State agencies:

1. Roads and Maritime Services;
2. Rural Fire Service;
3. Department of Primary Industries;
4. Office of Environment and Heritage; and
5. Department of Industry Resources and Energy.

It is considered that the Gateway only need require consultation with the following agencies and organisations;

1. The NSW Office of Environment and Heritage;
2. The local aboriginal land council in relation to matters of Aboriginal cultural heritage.
3. The NSW Rural Fire Service;

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Rural Fire Service		

Lismore LEP 2012 – 95 Breckenridge Street, Wyrallah.

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 :

Heritage

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
Letter to DP&E seeking Gateway determination for 95 Breckenridge Street.pdf	Proposal Covering Letter	Yes
Planning Proposal - Rezoning of 95 Breckenridge Street Wyrallah_Lismore LGA.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
 - 4.1 Acid Sulfate Soils
 - 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 planning proposal should proceed subject to the following;
- 1. The planning proposal proceed as a 'routine' planning proposal.
 - 2. Prior to community consultation an Aboriginal and European cultural heritage study be prepared for the subject site and placed on public exhibition with the planning proposal.
 - 3. A community consultation period of 14 days is necessary.
 - 4. The planning proposal is to be completed within 12 months.
 - 5. The RPA is to consult with the following State agencies and organisations;
 - a. The NSW Office of Environment and Heritage;
 - b. The local aboriginal land council in relation to matters of Aboriginal cultural

heritage.

c. The NSW Rural Fire Service;

6. A written authorisation to exercise delegation be issued to Lismore City Council.

7. The delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2 and 3.1 are justified in accordance with the terms of the direction.

8. The delegate of the Secretary note that unresolved consistency of the proposal with S117 Directions 2.3 and 4.4.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will contribute to the identified demand for R5 zoned land in Lismore LGA which is identified in the Lismore Growth Management Strategy 2015-2035.

2. The land is relatively unconstrained and has been identified as generally suitable for rural residential development through the strategic planning process.

3. The proposal is consistent with the strategic planning framework and the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Craig Diss

Date:

21 March 2016