

Rezoning Planning Proposal

1 and 3 Federation Drive and part 2 Rainforest Drive, Eltham

September 2017

Updated post public exhibition to include, among other things, analysis of public submissions and public authority and organisation consultation; correction of a misdescription of the explanation of the planning proposal with the inclusion of part 2 Rainforest Drive, Eltham; and updated Part 3, section C assessment of environmental, social and economic impacts.



Table of Contents

EXECUTIVE SUMMARY	3
PART 1 – OBJECTIVES OR INTENDED OUTCOMES	4
PART 2 – EXPLANATION OF PROVISIONS	4
PART 3 – JUSTIFICATION	5
Section A – Need for the Planning Proposal	5
Section B – Relationship to Strategic Planning Framework	7
Section C – Environmental, Social and Economic Impact	8
Section D – State and Commonwealth Interests	11
PART 4 - MAPPING	13
PART 5 – COMMUNITY CONSULTATION	16
PART 6 – PROJECT TIMELINE	18
PART 7– LEP DELEGATIONS	18
APPENDIX 1 - STATE ENVIRONMENTAL PLANNING POLICIES	18
APPENDIX 2 - SECTION 117 MINISTERIAL DIRECTIONS	22

EXECUTIVE SUMMARY

The planning proposal that forms the subject of this report was lodged with Council in combination with a development application for a three lot subdivision in accordance with Section 72J of the *Environmental Planning and Assessment Act 1979*. This report assesses the merits of the planning proposal in accordance with the Department of Planning & Environment's guide to preparing planning proposals. A Gateway determination was issued on 21 December 2016. The assessment of the development application is not dealt with in this report.

This rezoning planning proposal has been prepared in respect to land described as 3 Federation Drive, Eltham (Lot 12 DP 870942). Consequential rezoning of adjoining road reserve and an adjoining narrow allotment owned by Council (1 Federation Drive, Eltham Lot 12 DP 865152); and a "tidy up" zone change at part (270m²) 2 Rainforest Drive, Eltham are also proposed (refer to Figure 1 for site plan).

The outcomes of the planning proposal will be:

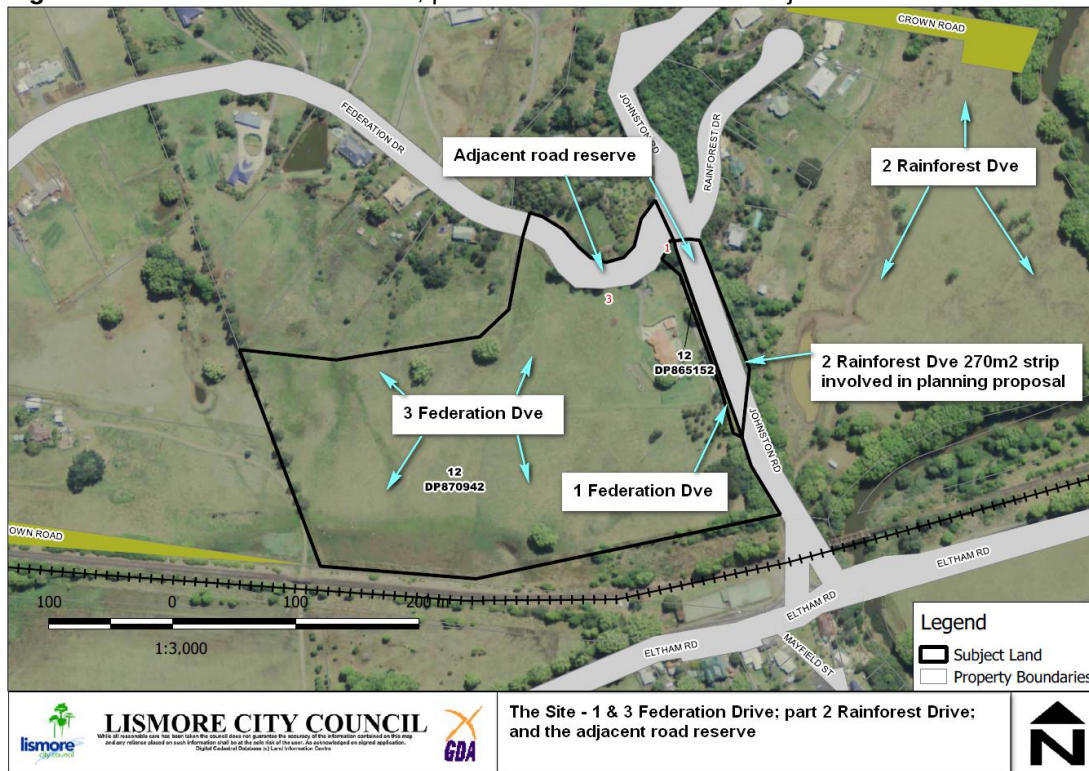
- Change the Zone of 1 and part 3 Federation Drive, Eltham; part (approximately 270m²) 2 Rainforest Drive, Eltham; and adjacent road reserve from RU1 Primary Production to R5 Large Lot Residential; and
- Apply a minimum lot size of 1ha to Zone R5 at part 3 Federation Drive and 1 Federation Drive; and
- Apply a 3ha minimum lot size to the residue Zone RU1 at 3 Federation Drive; Zone R5 at part (270m²) 2 Rainforest Drive; and the adjacent road reserve; and
- Apply a maximum building height of 8.5m to Zone R5.

Part of the approximately 7ha 3 Federation Drive is identified in the Lismore Growth Management Strategy 2015 – 2035 as being suited for one or two additional large residential lots. The subject land is located adjacent to an existing large lot residential estate in Federation Drive; 430m from the Eltham tennis courts and Eltham Pub; and 2.7km from the Village of Clunes. The constraints of the site include bush fire, flood, slope and cattle tick dip site.

The combined planning proposal/development application was publicly exhibited from 21 June, 2017 to 7 July, 2017 and referred to the relevant government agencies and organisations. Two submissions in objection were received. A summary of the issues raised in the submissions; a review of agency and organisation comments; and an assessment of the likely impacts of the proposed rezoning are included in this report.

The planning proposal is consistent with the relevant State Environmental Planning Policies and is consistent or justifiably inconsistent with the relevant section 117 Ministerial Directions.

Figure 1. 1 and 3 Federation Drive, part 2 Rainforest Drive and adjacent road reserve



PART 1 – OBJECTIVES OR INTENDED OUTCOMES

- To enable subdivision of 3 Federation Drive, Eltham (one lot) into three lots.
- To apply the surrounding zone at 1 Federation Drive (for all intents and purposes, part of the road reserve); the surrounding road reserve; and part 2 Rainforest Drive as part of a mapping “tidy up”.

PART 2 – EXPLANATION OF PROVISIONS

The proposed outcome of the planning proposal will be achieved by:

- Amending the Lismore LEP 2012 Land Zoning Map (Sheet LZN_005) by changing Zone RU1 Primary Production to Zone R5 Large Lot Residential at part 3 Federation Drive (part Lot 12 DP 870942); the adjoining 1 Federation Drive (Lot 12 DP 865152); part (270m²) 2 Rainforest Drive (part Lot 1 DP 1042417); and the adjacent road reserve.
- Amending the Lismore LEP 2012 Minimum Lot Size Map (Sheet LSZ_005) by changing the minimum lot size of 40ha to 1ha for proposed Zone R5 at part 3 Federation Drive and 1 Federation Drive. Additionally, change the minimum lot size of 40ha to 3ha for the residue Zone RU1 at 3 Federation Drive; proposed Zone R5 at part (270m²) 2 Rainforest Drive; and proposed Zone R5 within the adjacent road reserve.
- Amending the Lismore LEP 2012 Height of Buildings Map (HOB_005) for all of the proposed Zone R5 with the application of an 8.5m maximum building height.

PART 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

1. Is the Planning Proposal a result of any strategic study or report?

Yes. Part of the land is identified in the Lismore Growth Management Strategy 2015 – 2035 (GMS) as being suited for one or two additional large residential lots (subject to detailed assessment). Refer to Figure 2 for the identification of the site in the GMS. An extract from the GMS follows:

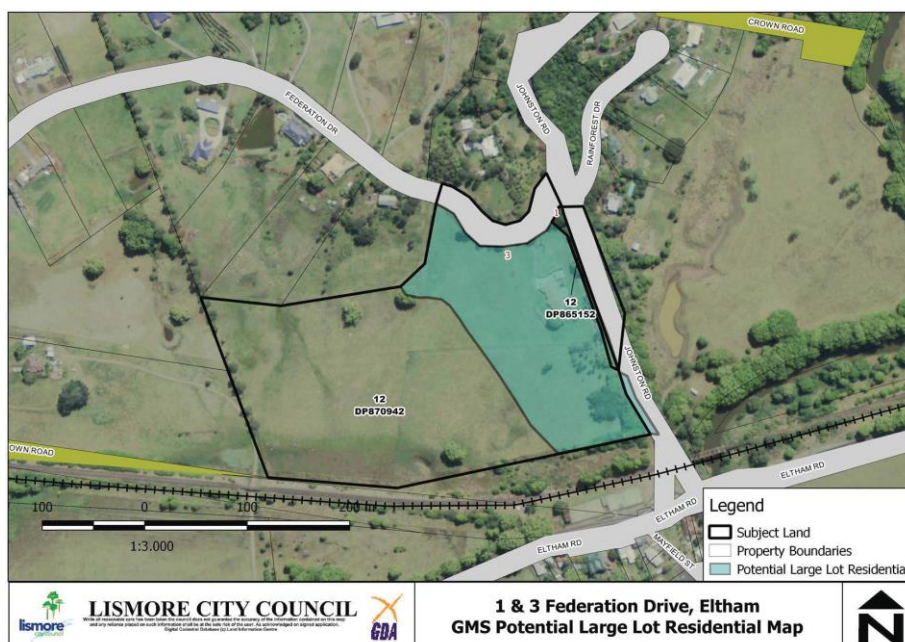
A small area in Eltham is identified for further large lot residential subdivision, as shown on Map 25. The property at 3 Federation Drive is approximately seven (7) hectares in area and adjoins the existing large lot residential subdivision in Federation Drive, Eltham and is within walking distance of the tennis courts and the Eltham Hotel and close to Clunes. The land is mapped as regionally significant farmland although a submission by the landowners highlights the difficulties in achieving an income from farming the land due to its size and the proximity of other housing.

The site falls to the south with grades up to 40% in parts and the lower parts of the land are flood prone and not suitable for housing. Therefore, it is likely that only 1-2 additional lots could be achieved that will be generally consistent with the lot sizes achieved in the adjoining subdivision in Federation Drive.

Access could be achieved from either Federation Drive or Johnston Road, although preferred and more practical access is from Federation Drive. Federation Drive has a curvilinear alignment, which fosters a lower speed environment.

There is a former dip site on the land that will need to be assessed and decommissioned and rehabilitated as required.

Figure 2. Identification of the site in the GMS



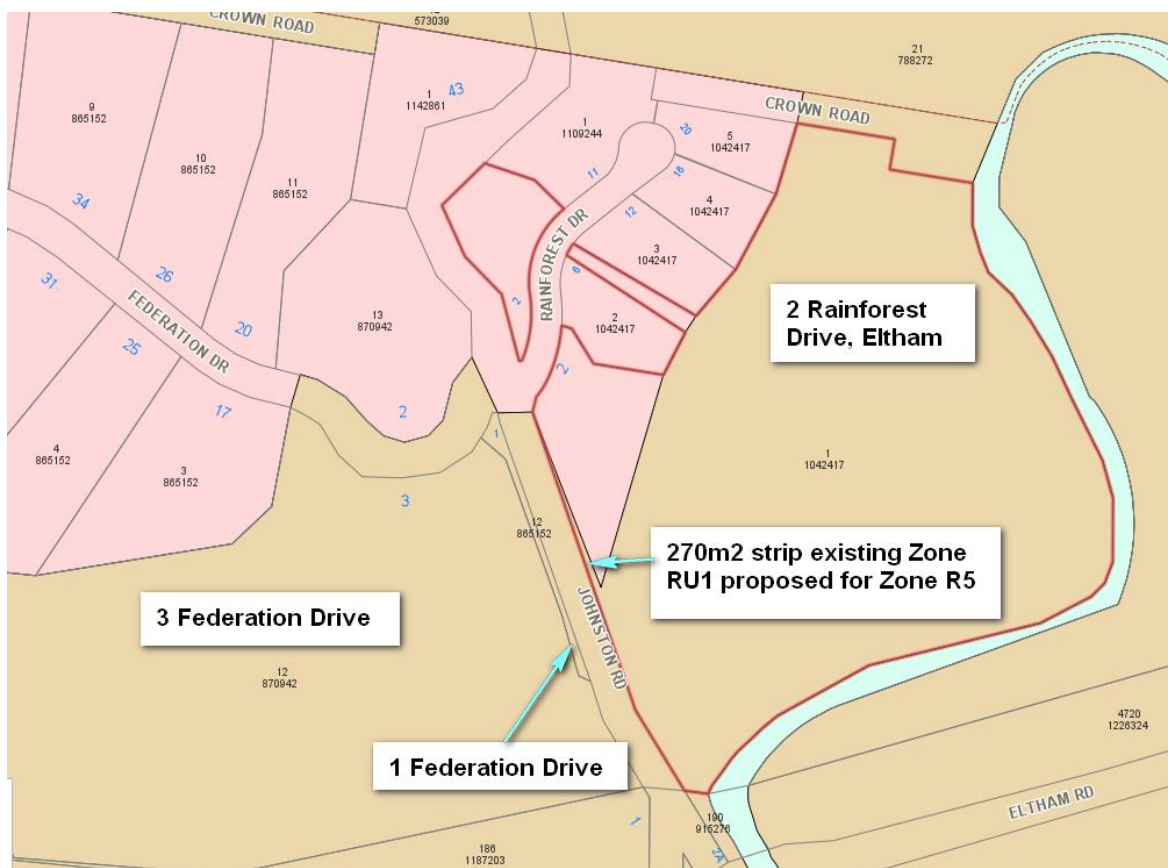
2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. In order for a development application to be considered for subdivision of 3 Federation Drive from one lot into three lots it is necessary to first amend the planning framework applying to the land in particular zoning, minimum lot size and maximum building height.

The alternative to rezoning the land is the use of Schedule 1 – Additional permitted uses. Schedule 1 may be useful if the circumstances of the site warrant a particular land use that should not be carried out on surrounding and adjoining land. The subject planning proposal will result in land use that is consistent with surrounding land uses. Consequently, the use of Schedule 1 is not the preferred approach to achieving the outcomes of the planning proposal.

The proposed zone change in the road reserve is in accordance with the Department of Planning and Environment's LEP Practice Note PN 08-002. 1 Federation Drive is a Council owned linear lot containing the foot path running parallel to the road reserve and for all intents and purposes is part of the road reserve. The purpose of the proposed zone change to part 2 Rainforest Drive (270m²) is to rectify an anomaly in the LEP maps and match up with the proposed road reserve zone change (refer to Figure 3). The minor proposed zone change at part 2 Rainforest Drive and consequential changes to minimum lot size and height of buildings maps will not change land use permissibility in the location as LEP 2012 clause 5.3 *Development near zone boundaries* applies. There is no change to subdivision potential.

Figure 3 – 2 Rainforest Drive, Eltham existing zone map



3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

In December 2006 the Minister for Planning released the Far North Coast Regional Strategy 2006-2031 (FNCRS). The purpose of the strategy is to provide land use planning policy guidance for the sustainable development of the Far North Coast region between 2006 and 2031.

The planning proposal is consistent with the FNCRS Chapter 7 Settlement and Housing Outcomes. The strategy identifies that:

Rural residential development will continue as a housing choice for people in the region. In the future such development will be located close to existing centres, avoiding areas of significant environmental and landscape value, and significant natural resources (including high quality agricultural land). An adequate level of services will be provided to meet the community's needs.

Council will not incur costs associated with the provision of reticulated water and sewerage infrastructure in this location. Water will be harvested on site and sewage and wastewater will be disposed on site.

4. Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan?

Yes. The planning proposal is consistent with Imagine Lismore community's vision for growth as follows:

- 3 Federation Drive is identified in the Lismore Growth Management Strategy 2015 - 2035;
- The proposal will result in a minor expansion of an existing large lot residential estate;
- 3 Federation Drive is in close proximity to existing community facilities and services at Eltham and Clunes;
- The agricultural potential of the land is limited by its relatively small area for rural enterprises and the close proximity to existing large residential lots;
- Adequate flood free land is available for residential development;
- Adequate land is available to manage any potential future conflict with surrounding agricultural land uses;
- The land is not koala habitat;
- The land is not located on a ridgeline;
- No threatened species were located on the land.

5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is consistent with the applicable State Environmental Planning Policies. A checklist of the SEPPs is provided at Attachment 1.

6. Is the Planning Proposal consistent with applicable s117 Ministerial Directions?

The planning proposal is consistent, or justifiably inconsistent with the applicable s117 Ministerial Directions. A Section 117 checklist for the planning proposal is provided at Attachment 2.

Section C – Environmental, Social and Economic Impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?

There is no registered critical habitat pursuant to Part 3 of the *Threatened Species Conservation Act 1995* within the Lismore Local Government Area.

Eltham was located in the centre of the historical “Big Scrub” subtropical rainforest prior to the clearing of the forest over the last 100 years. Vegetation now occurring at the site mainly consists of exotic-dominated grassland (e.g. Buffalo Grass, Kikuyu Grass) and isolated small areas of Camphor Laurel regrowth.

A targeted survey for the threatened flora species Hairy Jointgrass, listed under the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999*, was undertaken on 24 February, 2017 within the key period of detectability. No Hairy Jointgrass was located on the site.

A small area (approximately 600m²) of regenerating forest is located in the south eastern portion of 3 Federation Drive, adjacent to the decommissioned Eltham cattle dip site. Council’s Ecologist has confirmed that this vegetation consists of a Blackwood (*Acacia melanoxylon*) broken overstorey; a midstorey of Camphor Laurel (*Cinnamomum camphora*) and Broad-leaved Privet (*Ligustrum lucidum*); and an understorey of Lantana (*Lantana camara*), Winter Senna (*Senna pendula* var. *glabrata*) and Mistflower (*Ageratina riparia*). The vegetation is not consistent with Lowland Rainforest Endangered Ecological Community under the *Threatened Species Conservation Act 1995*. Council’s Compliance Coordinator (Environmental Health) has determined that the presence of this woody vegetation is compromising the integrity of the capping of the dip bath. Further commentary regarding the dip site is provided below.

There are no threatened species records (OEH BioNet Atlas of NSW Wildlife) or Koala habitat at or in close proximity to the site. Council’s mapping indicates that there are no fauna corridors covering the site. However, the Clunes-McLeans Ridges Connector occurs approximately 300m to the north-east of the site. This corridor is fragmented and degraded at the edges.

The site has limited biodiversity values and there are no ecological impediments to the proposal proceeding to plan making.

8. Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Flooding

2.34ha of the 7.1ha 3 Federation Drive site is located within the LEP flood planning area. This portion of the site is excluded from the proposed Zone R5 Large Lot Residential. The proposed minimum lot sizes of 3ha for the residue Zone RU1 Primary Production and 1ha for the Zone R5 will restrict future development at two additional lots. The flood free locations are adequate for an additional two allotments.

Land use capability assessment – on site sewerage and wastewater management

The preliminary On-site Wastewater Management technical report submitted with the planning proposal is generally in accordance with Council's On-site Sewage and Wastewater Management Strategy. The report concludes that the subject site can accommodate on-site sewage management (OSSM) systems to service future large lot residential development. The southern portion of the site, adjacent to the railway line, is water logged. A separation distance of 40m can be achieved from this part of the site for OSSM infrastructure.

Land Contamination

A preliminary contaminated land report prepared by Greg Alderson and Associates accompanied the proposal pre-Gateway determination. Further contaminated land reporting was submitted post Gateway, including soil sampling of proposed building envelopes. No high levels of contaminants above the HIL (Health Investigation Levels outlined in the National Environmental Protection Measure 1999 (2013)) residential thresholds were identified.

The planning proposal is consistent with the requirements of Clause 6 of State Environmental Planning Policy 55 – Remediation of Land and the *Contaminated Land Management Act 1997*. It is unlikely that the subject site presents contamination issues such that remediation would be required for the development to proceed or if any contamination was found, that the land would not be able to be remediated for the purpose for which the land in the zone is permitted to be used.

A condition has been imposed on the associated draft subdivision development consent that requires an Environmental Management Plan for the dip site. Additionally, a restriction on the use of the land is required under s88B of the *Conveyancing Act 1919* to ensure perpetuity of management for the dip site.

Land Use Conflict

The planning proposal will result in the creation of an interface between existing large lot residential, rural, former rail corridor and road corridor land uses. There are no critical land use conflicts that prevent the progression of the planning proposal to the plan making stage. Ongoing management of the Eltham dip site is discussed in the "Land Contamination" section of this report.

Bush Fire

The site has been identified as being bushfire prone land. A bush fire threat assessment report was submitted to Council as part of the planning proposal.

Council consulted with the Commissioner of the NSW Rural Fire Service in accordance with the Gateway determination and Section 117 of the *EP&A Act 1979*, Ministerial Direction 4.4. The RFS raised no concerns in relation to bush fire.

Geotechnical

The site falls steeply from Federation Drive in a southerly direction to a relatively flat area adjacent the unused railway line. No areas of mass soil movement were recorded on this site. However, areas of seepage were observed during the site inspection. A geotechnical report prepared by Shaw:Urquhart was submitted post Gateway determination. The report concluded that areas are available on each of the proposed allotments for a dwelling. An extract from section 4.7 “Risk Assessment” of the report is provided below:

It is our opinion based on Appendix C of the Australian Geomechanics Society “Practice Note Guidelines for Landslide Risk Management 2007” that, if development is restricted to zones of Barely Credible, Rare or Unlikely instability and the geotechnical development constraints presented in Table 3 and Section 4.6 of this report are strictly followed, the areas can be developed with a Low to Very Low risk of damage to property.

Drinking Water Catchment

The site is located within the Wilsons River Drinking Water Catchment. Any future large lot residential subdivision will be required to comply with LEP clause 6.4 Drinking Water Catchments and DCP Chapter 22 Water Sensitive Design.

The OSMS technical reporting demonstrates that future dwellings can be serviced by a system that satisfies the performance objectives of Council’s On-site Sewage and Wastewater Management Strategy affording necessary protection to the drinking water catchment.

The land area is large enough to manage stormwater runoff associated with a future potential two additional allotments. Future development of the area is capable of satisfying the performance objectives of Lismore DCP Chapter 22 – Water Sensitive Design and affording appropriate protection for the drinking water catchment.

9. How has the Planning Proposal adequately addressed any social and economic effects?

Aboriginal and European cultural heritage

The site is not subject to any Aboriginal or European heritage items listed in Schedule 5 LEP 2012.

A search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken for the site on 13 October 2016. No Aboriginal sites or places were recorded or declared on that date.

The site is located within 100m of the Wilsons River. The land does not contain any of the high bank of the river that may have been used for pre-settlement Aboriginal campsites. Moreover, the site is unlikely to contain Aboriginal artefacts due to its hillslope and floodplain location and post-settlement land use history including 100 years of clear felling, rock picking and rural land use practices.

The planning proposal was referred to the Ngulingah Local Aboriginal Land Council and the Office of Environment and Heritage. No issues were raised.

Social Impact

A formal social impact assessment is only required where the rezoning results in a significant change in land use e.g. 20 or more dwellings or lots (Section 5.3 LCC Social Impact Assessment Guidelines). The planning proposal will only result two additional lots.

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

Water

Water supply will be harvested on site and stored in rainwater tanks. This matter can be addressed at development application stage. No public infrastructure is required for the provision of water.

Sewer

Sewage and wastewater will be managed on site. No public sewerage infrastructure is required.

Traffic

The proposed development area is bounded to the north (140m site frontage) by Federation Drive and to the east by Johnston Road. Federation Drive is a 6.5m wide bitumen sealed rural local road that services 19 lots. It is estimated that Federation Drive carries 80 vehicles per day. The proposed development seeks two additional lots which are likely to add a further 9 vehicles per day to the Federation Drive traffic. Federation Drive currently provides a high level of service to residents and other road users.

Traffic from this site has the option of traveling north east to Bangalow or south west to Lismore. It is reasonable to assume a 20:80 split thereby directing an additional 7 vehicles per day through the roundabout at the intersection Johnston Road and Eltham Road. The impact to the operation of the roundabout is considered negligible. The additional traffic likely to be generated from this development will have no significant impact on the level of service or the carrying capacity of the external road network.

Stormwater

Stormwater drainage from Federation Drive discharges onto the site from an underground stormwater drainage pipe. An appropriate condition of development consent regarding stormwater can be required at development application stage. Further discussion of stormwater is provided in section 8 of this report under the heading of “Drinking Water Catchment”.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

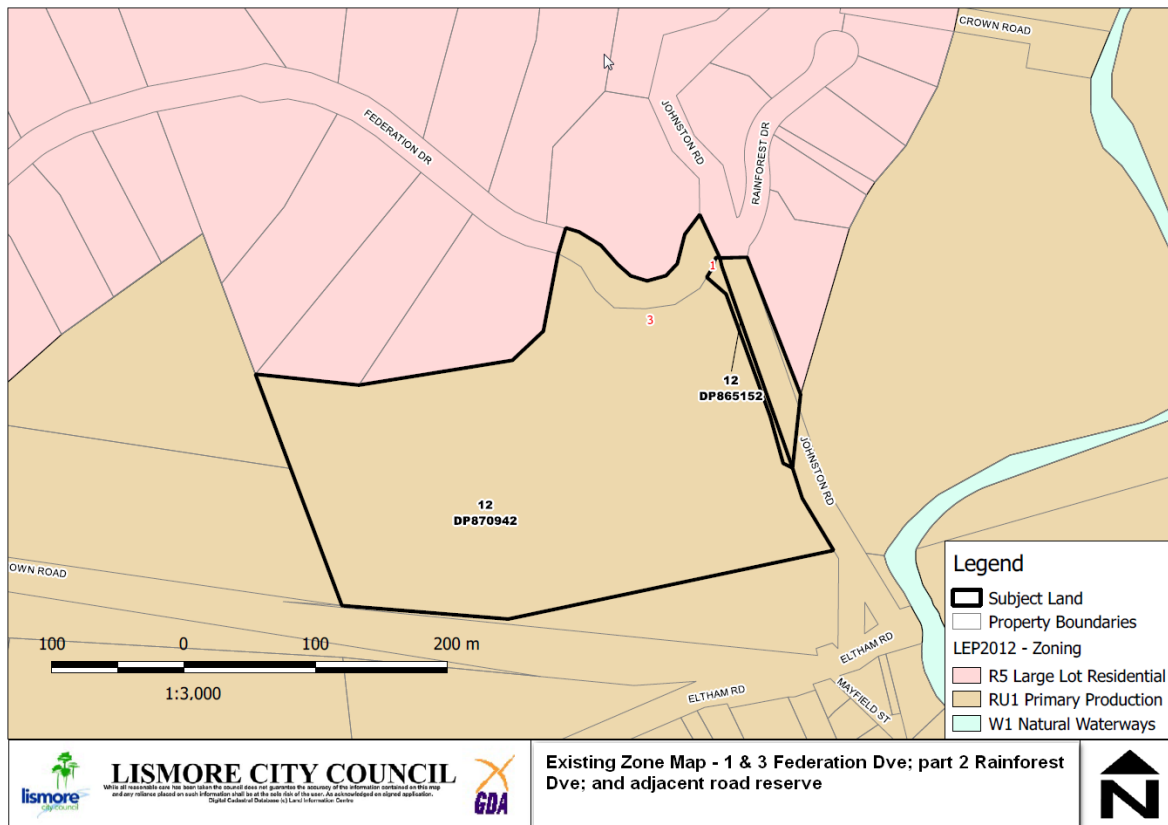
In accordance with the Gateway determination the planning proposal was referred to the Rural Fire Service; the Environmental Protection Authority; the Ngulingah Local Aboriginal Land Council and the Office of Environment and Heritage. Table 1 below provides a staff assessment of the issues raised.

Table 1 – Public authority and organisation comments

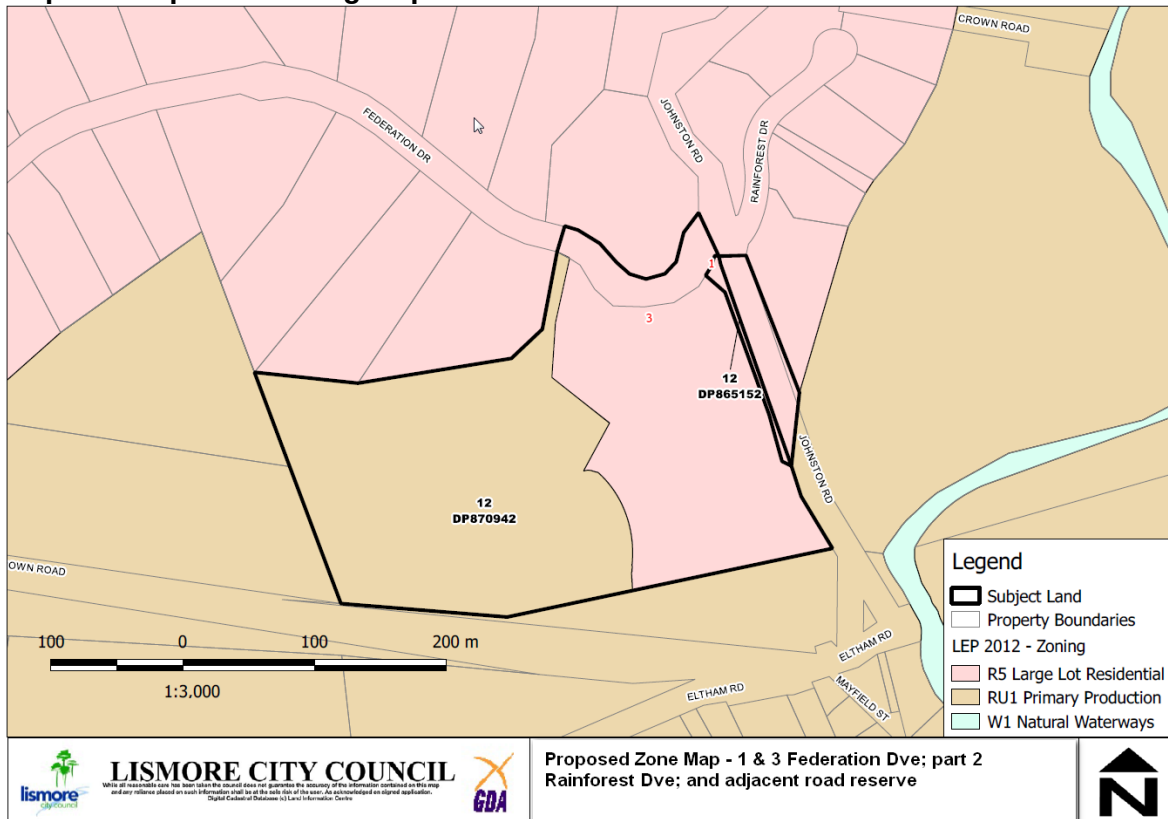
Issue	Assessment
Office of Environment and Heritage	
Support the requirement for a vegetation management plan for the lot that contains the Eltham dip.	The planning proposal was referred to the NSW Environment Protection Authority and that authority raised the issue of an environmental management plan for the decommissioned dip site. Council's Environmental Health Officer requires the submission of an environmental management plan as a development consent condition for the former dip site prior to the issuing of a Subdivision Certificate.
Satisfied that the proposal has adequately considered Aboriginal cultural heritage values.	Noted.
The planning proposal and development application adequately addresses matters of statutory interest to the OEH.	Noted.
Environment Protection Authority	
Who is responsible for maintaining the fencing and soil capping of the former dip site?	The dip site is to be protected and maintained in perpetuity by the property owner. This will be achieved with a requirement for an environmental management plan (EMP) and a restriction on the use of the land regarding the implementation of the EMP.
Will a notation be placed on the s149 certificate indicating that there is a former cattle tick dip on the property?	A s149 certificate for the property would indicate that the land is contaminated. Further information regarding the nature of the contamination can be obtained by contacting Council's Environmental Health Officer.
Is there a management plan in place?	An EMP will be required as outlined above.
Should additional soil sampling be required at the site in the future, composite sampling is not recommended, rather, distinct samples should be collected.	Future development applications for the site will be referred to Council's Environmental Health Officer for comment.
Should excavations be undertaken at the site as part of development works, soil sampling, waste classification, and waste disposal should be in accordance with, but not limited to, the following: • Guidelines for the Assessment and Clean Up of Cattle Tick Dip Sites for Residential Purposes, NSW Agriculture and CMPS&F Environmental (February 1996); • National Environment Protection (Assessment of Site Contamination) Measure 1999; • NSW EPA Sampling Design Guidelines (1995); • Council's Contaminated Land Policy; • NSW EPA Waste Classification Guidelines	Future development applications for the site will be referred to Council's Environmental Health Officer for comment.
Ngulingah Local Aboriginal Land Council	
The planning proposal was referred to the LALC. No comments received.	The planning proposal was referred to the LALC in November 2016 and again in June 2017. Council's Environmental Contractor (Environmental and Cultural Heritage Management) followed up on the referral on two separate occasions. No issues were raised verbally.
Rural Fire Service	
The RFS raise no concerns in relation to bush fire.	Noted

PART 3 – MAPPING

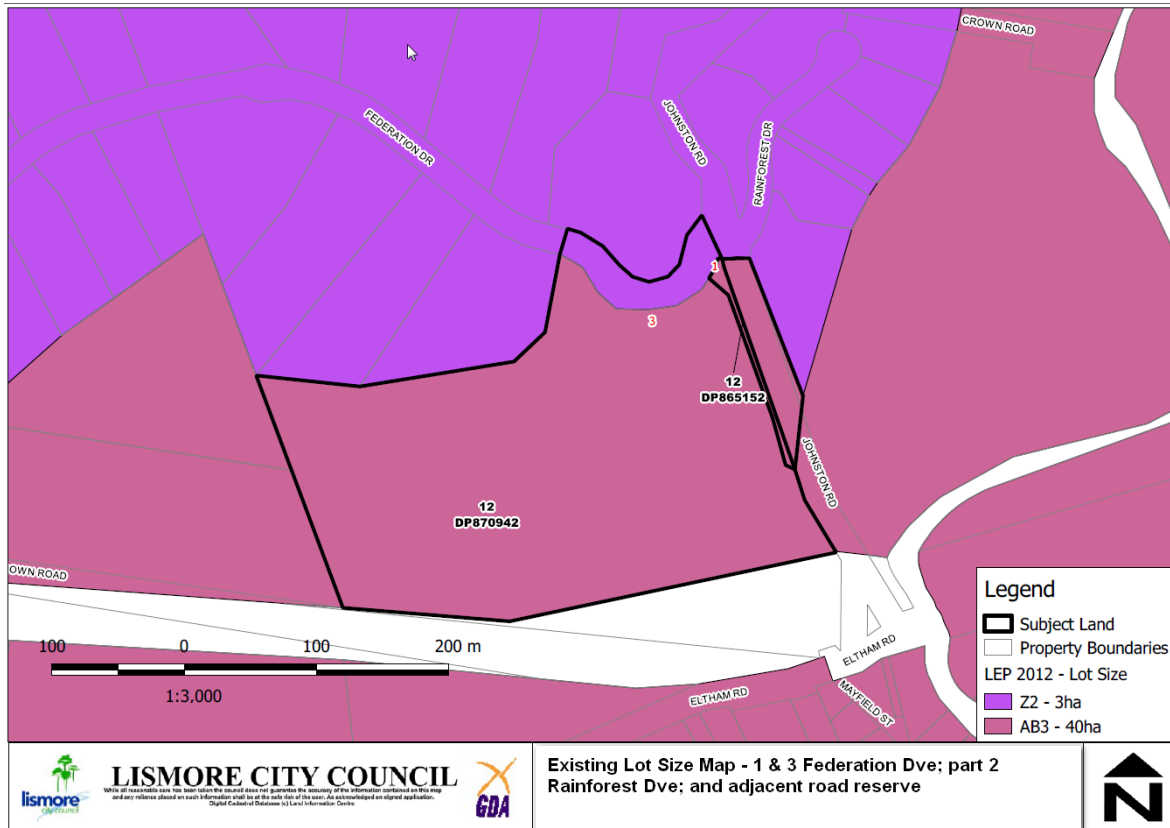
Map 1 – Existing Zoning Map



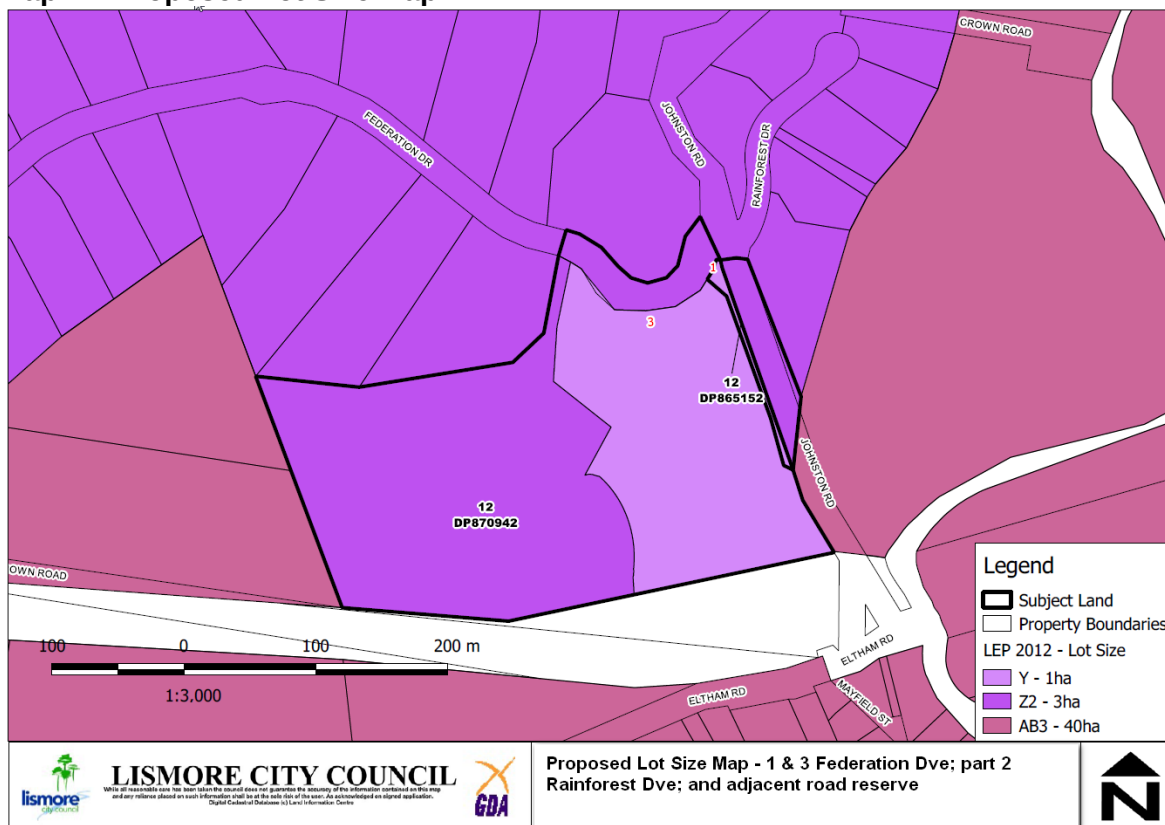
Map 2 – Proposed Zoning Map



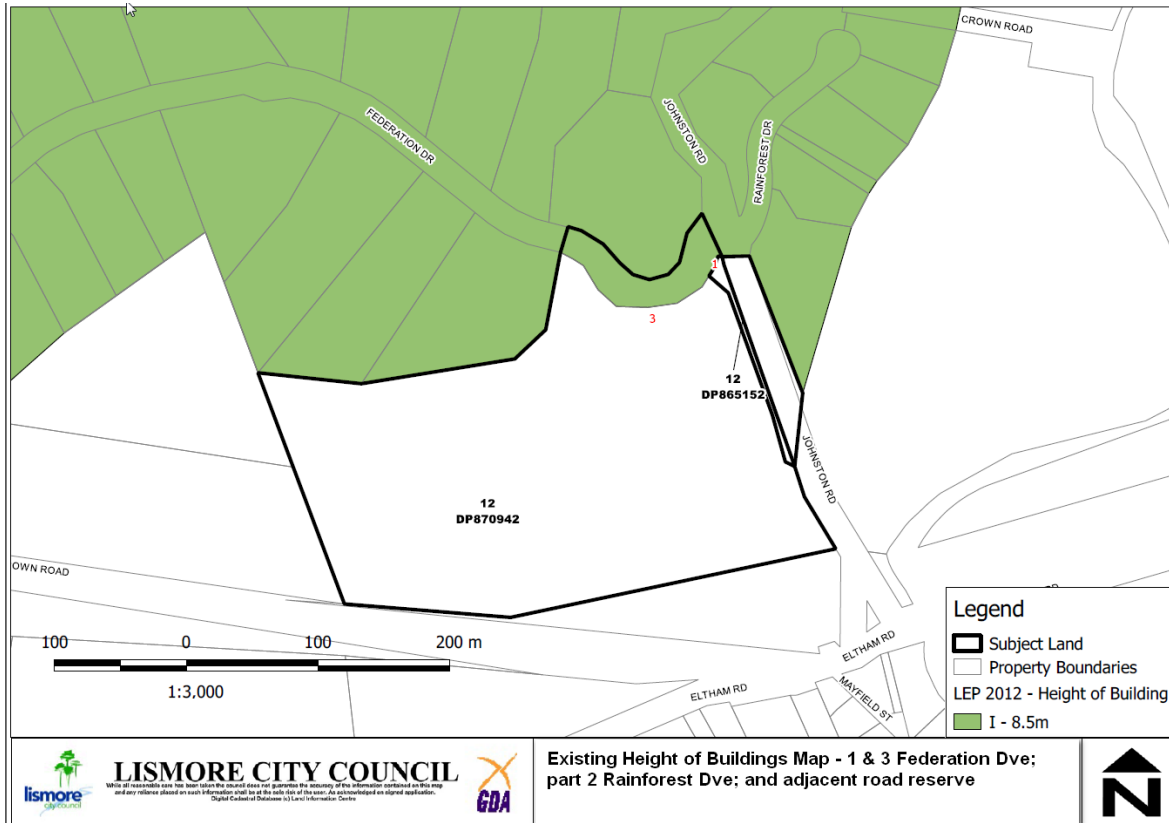
Map 3 – Existing Lot Size Map



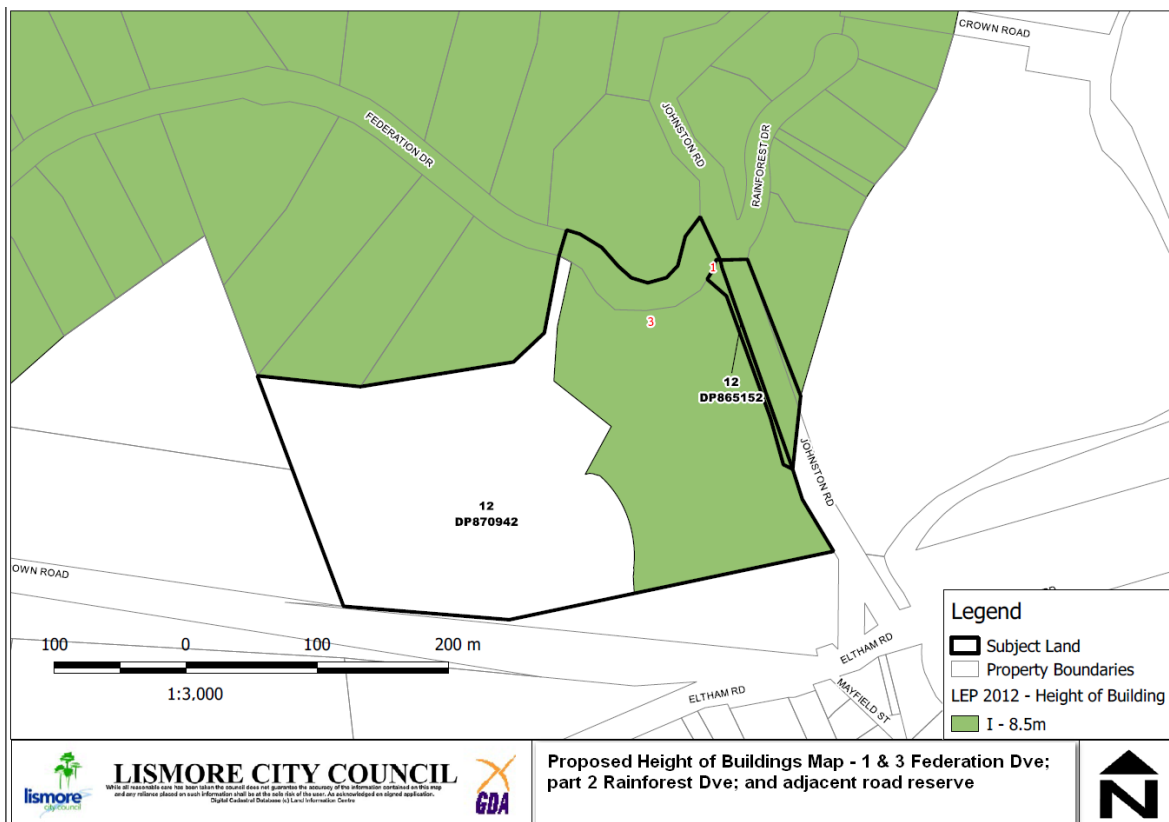
Map 4 – Proposed Lot Size Map



Map 5 – Existing Height of Building Map



Map 6 – Proposed Height of Building Map



PART 5 – COMMUNITY CONSULTATION

The planning proposal was publicly exhibited from 21 June, 2017 to 7 July, 2017 and adjoining and surrounding land holders were notified in accordance with the Gateway determination. Two submissions in objection were received and a staff assessment of the issues is provided in Table 2 below.

Note. The combined planning proposal/subdivision development application were publicly exhibited concurrently and some reference is made in to the development application in the assessment.

Table 2 – Public submissions

Issue	Assessment
1. Negative impact on amenity: • Detract from the character of the area • Future dwellings in front of current rural outlook • Increased vehicle noise	Character of the area The proposed minimum lot size is 1ha and 3ha. The DA plan of subdivision proposes to create 2 x 1.5ha lots and 1 x 4ha lot. Allotments of this size are generally larger than the existing rural residential lots in Federation Drive which range from 0.5ha to 1.0ha. Therefore it is contended that the subdivision would be consistent with the existing form and pattern of the development or character in that location. Rural Outlook A future dwelling on either of the proposed 2 additional lots would be visible from some of the dwellings to the north and northwest. However, these dwellings are located significantly upslope and any future dwelling on the subdivided lots would result only in a partial loss of foreground view with the total maintenance of the mid distance and long distance rural panorama. Future dwellings that would result from the proposed rezoning are consistent with the “Principles of view sharing” as listed in <i>Tenacity Consulting v Waringah [2004] NSWLEC 140</i>. Increased vehicle noise Lismore Strategic Road Review 2013 states that 6.5 vehicle trips/day are generated for a detached urban dwelling and 4.0 vehicle trips/day are generated from a rural dwelling. It is reasonable to assume that the upper limit for a rural residential dwelling would be 6.5 trips/day. This is 13 trips/day if one dwelling is built upon each of the 2 additional lots. This minor level of increased noise is consistent with noise generated from the surrounding dwellings and will not detract from the amenity of the area.
2. Storm water and downslope seepage on proposed new lots	A geotechnical report prepared by Shaw:Urquhart Consulting Geotechnical and Environmental Services concludes that suitable areas are available to be developed on both of the proposed allotments with a low or very low risk of damage to property. Appropriate storm water and geotechnical conditions can be incorporated in the subdivision development consent.
3. Flooding in lower part of proposed lot 2 and 3	No flood liable land has been proposed for Zone R5 Large Lot Residential, i.e. Lot 2 is not mapped as flood planning area. The proposed Lot 3 is within Zone RU1 Primary Production and has adequate flood free land available for a future dwelling and ancillary structures.
4. Unfair that land can be subdivided when current owners bought in the area with an expectation that things would stay	The planning proposal/development application is small scale and in keeping with the character of the area. There will be minimal impact on the rural vista in the location. Moreover, the proposed rezoning is consistent with the Lismore

Issue	Assessment
the same.	Growth Management Strategy 2015; and the relevant State Environmental Planning Policies. The proposal is also consistent or justifiably inconsistent with the relevant s117 Ministerial Directions.
5. Concern about devaluing existing adjoining property.	Numerous external factors can influence the property market and their discussion is beyond the scope of this report. On a local land use planning scale, it was concluded in the assessment of Issue No. 1 that the subdivision enabled by this planning proposal will not change the character of the area significantly. There will be minimal impact on the rural outlook for adjoining landholders and only minor increased traffic movements will occur.
6. The land is mapped as regionally significant farmland. The subdivision fragments a rural land resource.	The land is mapped as regionally significant farmland under the Northern Rivers Farmland Protection Project 2005. The following circumstances of this planning proposal justify the rezoning that will enable the subdivision to create an additional two lots: • The land is identified in the Lismore Growth Management Strategy 2015-2035; • The planning proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles of SEPP (Rural Lands) 2008; • The planning proposal was consistent with the Far North Coast Regional Strategy (applicable at the time of the Gateway determination); • The planning proposal will enable a minor extension of an existing large lot residential estate.

PART 6 – PROJECT TIMELINE

The proposed timeline for the completion of the planning proposal is as follows:

Estimated Completion	Plan Making Steps
December 2016	Report planning proposal to Council
January 2017	Gateway determination issued by DP&E
May 2017	Submission of additional technical information
May/June 2017	Council reviews technical information Government agency consultation Analysis of government agency comments
June/July 2017	Public exhibition Analysis of public submissions Preparation of LEP maps Preparation of Council report
September 2017	Report to Council
September 2017	Opinion sought from Parliamentary Counsel's Office Plan making by RPA
October/November 2017	Notification of the draft Local Environmental Plan

PART 7– LEP DELEGATIONS

The Gateway determination confirmed that Lismore City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012 for the planning proposal.

APPENDIX 1 - STATE ENVIRONMENTAL PLANNING POLICIES

COMPLIANCE TABLE

State Environmental Planning Policy	Requirements	Compliance
SEPP No. 6 – Number of Storeys in a Building	Not applicable	Not applicable
SEPP No 14 – Coastal Wetlands	Not applicable	Not applicable
SEPP No. 21 – Caravan Parks	Not applicable	Not applicable
SEPP No. 22 – Shops and Commercial Premises	Not applicable	Not applicable
SEPP No. 26 – Littoral Rainforests	Not applicable	Not applicable
SEPP No. 30 – Intensive Agriculture	Not applicable	Not applicable
SEPP No. 32 – Urban Consolidation (<i>Redevelopment of Urban Land</i>)	Not applicable	Not applicable
SEPP No. 33 – Hazardous and Offensive Development	Not applicable	Not applicable
SEPP No. 36 – Manufactured Home Estates	Not applicable	Not applicable
SEPP No. 44 – Koala Habitat Protection	3 - Aims, Objectives, Etc. (a) By requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat; (b) By encouraging the identification of areas of core koala habitat; and (c) By encouraging the inclusion of areas of core koala habitat in environment protection zones.	Consistent • The provisions of SEPP 44 apply in this part of the Local Government Area. • There are no koala feed trees located within the allotment. • There is no potential koala habitat pursuant to clause 4 of the SEPP, located on the allotment.
SEPP No. 50 – Canal Estate Development	Not applicable	Not applicable
SEPP No. 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable	Not applicable
SEPP No. 55 – Remediation of Land	6 - Contamination and Remediation to	Consistent The planning proposal is consistent with the

State Environmental Planning Policy	Requirements	Compliance
	be considered in Zoning or Re-zoning Proposal	requirements of Clause 6 of State Environmental Planning Policy 55 – Remediation of Land and the <i>Contaminated Land Management Act 1997</i> . It is unlikely that the subject site presents contamination issues such that remediation would be required for the development to proceed or if any contamination was found, that the land would not be able to be remediated for the purpose for which the land in the zone is permitted to be used. Additional comments provided in Part 3, Section C of this report.
SEPP No. 62 – Sustainable Aquaculture	Not applicable	Not applicable
SEPP No. 64 – Advertising and Signage	Not applicable	Not applicable
SEPP No. 65 – Design Quality of Residential Flat Development	Not applicable	Not applicable
SEPP No 70 – Affordable Housing (Revised Schemes)	Not applicable	Not applicable
SEPP No. 71 – Coastal Protection	Not applicable	Not applicable
SEPP (Affordable Rental Housing) 2009	Not applicable	Not applicable
SEPP (Building Sustainability Index: BASIX) 2004	Not applicable	Not applicable
SEPP (Exempt and Complying Development Codes) 2008	Not applicable	Not applicable
SEPP (Housing for Seniors or People with a Disability) 2004	Not applicable	Not applicable
SEPP (Infrastructure) 2007	2 - Aim of Policy The aim of this policy is to facilitate the effective delivery of infrastructure across the State	Consistent - The planning proposal is consistent with the aims of the SEPP. The proposed Zone R5 is a prescribed zone within which various forms of infrastructure are either permissible with or without development consent. - It is also worth noting that the proposed Zone R5 will prohibit various forms of infrastructure that are deemed incompatible with residential development. These include research stations, sewage treatment plants, water recycling facilities, waste or resource management facilities and water treatment facilities.
SEPP (Major Development) 2005	Not applicable	Not applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable	Not applicable
SEPP (Rural Lands) 2008	Consistency with the following:	Consistent The planning proposal is consistent with the

State Environmental Planning Policy	Requirements	Compliance
	7 Rural Planning Principles 8 Rural Subdivision Principles	Rural Planning Principles and rural subdivision Principles. • The planning proposal identifies land adjacent to the existing large lot residential land that will minimise the fragmentation of agricultural land. This approach will also serve to minimise potential land use conflicts. Residential land proposed to adjoin rural land will be of sufficient dimensions to accommodate required DCP buffer distances. • The proposed dwelling envelopes and areas suitable for on-site effluent disposal are free of woody vegetation. • The subject site is near existing community infrastructure and services at Eltham and Clunes. Larger centres including Lismore, Ballina and Byron Bay are readily accessible by road. • The planning proposal is consistent with the FNCRS Chapter 7 Settlement and Housing Outcomes (refer to Part 3 of this report for detail). • Lismore Growth Management Strategy 2015 – 2035 nominates the site for potential 1 or 2 additional large residential lots.
SEPP (SEPP 53 Transitional Provisions) 2011	Not applicable	Not applicable
SEPP (State and Regional Development) 2011	Not applicable	Not applicable
SEPP (Urban Renewal) 2010	Not applicable	Not applicable

APPENDIX 2 - SECTION 117 MINISTERIAL DIRECTIONS

COMPLIANCE TABLE

Ministerial Directions	Requirements	Compliance
1. Employment and Resources		
1.1 Business and Industrial Zones	Not applicable	Not applicable
1.2 Rural Zones	(4) A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	Justifiably inconsistent - The inconsistency is justified because the subject land has been identified for further large lot residential subdivision (an additional 1 or 2 lots) in the Lismore Growth Management Strategy 2015 - 2035. - The Lismore GMS has given consideration to the objectives of this Ministerial Direction. The GMS provides for additional residential land on the basis of meeting appropriate criteria, including consistency or justified inconsistency with SEPP (Rural Lands) 2008 and S117 Ministerial Directions 1.2 and 1.5. - The GMS was approved by the Department of Planning and Environment. - The planning proposal is consistent with the FNCRS Chapter 7 Settlement and Housing Outcomes (refer to Part 3 of this report for detail).
1.3 Mining Petroleum Production and Extractive Industries	This direction applies when the planning proposal: - Has the effect of prohibiting mining of coal or other minerals, production of petroleum, or winning or obtaining extractive materials; - Restricting the potential of State or regionally significant mineral resources	Not applicable - The planning proposal does not have the effect of prohibiting mining of coal or other minerals, production of petroleum, or winning or obtaining extractive materials. Pursuant to clause 7 SEPP (Mining, Petroleum Production and Extractive industries) 2007, mining, petroleum production and extractive industries can occur where agriculture or industry may be carried out (with or without development consent). Home industries (a form of industry) are permissible in rural and residential zones, therefore a planning proposal to change the zone from rural to residential is consistent with the direction as it maintains the permissibility status quo. - The land does not incorporate mineral resources or extractive materials which are of State or regional significance.
1.4 Oyster Aquaculture	Not applicable	Not applicable

Ministerial Directions	Requirements	Compliance
1.5 Rural Lands	The planning proposal must be consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in SEPP (Rural Lands) 2008.	Consistent - The planning proposal is consistent with the Rural Planning Principles and rural subdivision Principles. - The planning proposal identifies land adjacent to the existing large lot residential land that will minimise the fragmentation of agricultural land. This approach will also serve to minimise potential land use conflicts. Residential land proposed to adjoin rural land will be of sufficient dimensions to accommodate required DCP buffer distances. - The proposed dwelling envelopes and areas suitable for on-site effluent disposal are free of woody vegetation. - The subject site is near existing community infrastructure and services at Eltham and Clunes. Larger centres including Lismore, Ballina and Byron Bay are readily accessible by road. - The planning proposal is consistent with the FNCRS Chapter 7 Settlement and Housing Outcomes. - Lismore Growth Management Strategy 2015 – 2035 nominates the site for potential 1 or 2 additional large residential lots.
2. Environment and Heritage		
2.1 Environment Protection Zones	Must include provisions that facilitate the protection and conservation of environmentally sensitive areas. Must not reduce protection standards for environmental protection zones or land otherwise identified for environmental protection purposes in an LEP.	Consistent - The planning proposal does not involve <i>environmentally sensitive areas</i> listed Clause 3.3 of the Lismore LEP 2012. - The planning proposal does not apply to land within an environmental protection zone or land otherwise identified for environmental protection purposes. - A targeted Hairy Jointgrass survey was provided post Gateway determination. This species was not found on the site.
2.2 Coastal Protection	Not applicable	Not applicable
2.3 Heritage Conservation	Planning proposal must incorporate provisions for conservation of European and Aboriginal heritage items or places.	Consistent There are no known items of European or Aboriginal heritage located on the subject land.

Ministerial Directions	Requirements	Compliance
		- Council's Environmental and Cultural Heritage Contractor has reviewed the planning proposal and visited the site. Council consulted with the Local Aboriginal Land Council post Gateway determination. - OEH was satisfied that the proposal adequately considered Aboriginal cultural heritage values.
2.4 Recreation Vehicle Areas	Not applicable	Not applicable
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	The planning proposal must: - Broaden the choice of housing types and locations. - Make efficient use of existing infrastructure and services. - Reduce consumption of land. - Housing of good design. - Residential development not permitted until land is adequately serviced. - Not contain provisions that will reduce residential density.	Consistent - The rezoning planning proposal is of a small scale and limited to two additional lots, one within Zone R5 and one within Zone RU1. - A range of housing types including dwelling houses, dual occupancies and secondary dwellings are permissible with consent within Zone R5. Dwelling houses and dual occupancies are permissible with consent in Zone RU1. - The land is adjacent to an existing large lot residential estate. The land is in close proximity to existing community facilities and services in Eltham and Clunes. - Lismore LEP 2012 clause 6.9 requires the provision of services prior to granting development consent.
3.2 Caravan Parks and Manufactured Home Estates	In identifying suitable zones, locations and provisions for caravan parks in a planning proposal the RPA must: - Retain provisions that permit development of caravan park. - Retain zoning of existing caravan parks. In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the RPA must: - Take into account excluded land in Schedule 2 SEPP 36 - Principles listed in clause 9 SEPP 36	Consistent - The rezoning planning proposal is of a small scale and limited to two additional lots, one within Zone R5 and one within Zone RU1. - The characteristics of this site are not suitable for the development of a caravan park or a MHE.
3.3 Home Occupations	The planning proposal must permit home occupations in dwelling houses without	Consistent Development consent is not required

Ministerial Directions	Requirements	Compliance
	development consent.	for home occupations under LEP 2012 and SEPP (Exempt and Complying Development Codes) 2008.
3.4 Integrating Land Use and Transport	A planning proposal must locate zones for urban purposes that give effect to: - Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and - The Right Place for Business and Services – Planning Policy (DUAP 2001)	Consistent - The rezoning planning proposal is of a small scale and limited to two additional lots, one within Zone R5 and one within Zone RU1. The proposal will extend an existing large lot residential estate. - The site has sufficient capacity to provide access to transport for residents. - The existing road network will be utilised. - The site is adjacent to existing large lot residential development and associated infrastructure. - The land is in close proximity to existing community facilities and services in Eltham and Clunes. The site is located a short drive from the Lismore CBD and other larger centres.
3.5 Development Near Licensed Aerodromes	Not applicable	Not applicable
3.6 Shooting Ranges	Not applicable	Not applicable
4. Hazard and Risk		
4.1 Acid Sulfate Soils	(6) A Council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the Council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.	Not applicable The subject site is not identified on Council's Acid Sulfate Soils Planning Maps.
4.2 Mine Subsidence and Unstable Land	- Applies to mine subsidence areas. - Applies to areas identified as unstable.	Consistent - The land is not within a mine subsidence area. - A geotechnical report prepared by Shaw:Urquhart was provided post Gateway determination confirming that the site was capable of accommodating future residential development.
4.3 Flood Prone Land	Consistent with NSW	Consistent

Ministerial Directions	Requirements	Compliance
	Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 • Must not rezone land from Special use, special purpose, recreation, rural or environmental protection to residential, business or industrial, special use or special purpose. • Not permit development in floodway; must not have significant flood impacts on other properties; must not permit significant increase in development on that land • Not increase requirement for government spending on flood mitigation. • Not impose controls above the flood planning level. • Must not determine a flood planning level inconsistent with the Floodplain Development Manual 2005.	• The planning proposal does not rezone land to Zone R5 Large Lot Residential within the flood planning area. • A future dwelling may be possible within the residue Zone RU1. Adequate land is available outside of the flood planning area.
4.4 Planning for Bushfire Protection	A planning proposal in bush fire prone land: • Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination prior to community consultation. • Have regard to 'Planning for Bush Fire Protection 2006'. • Restrict inappropriate development from hazardous areas. • Ensure bush fire hazard reduction is not prohibited within the APZ.	Consistent • Parts of the subject land are bush fire prone. • A bush fire threat assessment was submitted with the combined DA planning proposal. • Council referred the planning proposal to the Commissioner of the NSW Rural Fire Service in accordance with the Gateway determination. No concerns were raised. • Bush fire hazard reduction authorised under the <i>Rural Fires Act 1997</i> can be carried out on any land without development consent.
5. Regional Planning		
5.1 Implementation of Regional Strategies	• The planning proposal must be consistent with	Consistent The planning proposal is consistent with the

Ministerial Directions	Requirements	Compliance
	the Far North Coast Regional Strategy.	Far North Coast Regional Strategy. Refer to Part 3 of the planning proposal report for further detail.
5.2 Sydney Drinking Water Catchments	Not applicable	Not applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	The planning proposal must not re-zone land mapped as State or regionally significant farmland under the Northern Rivers Farmland Protection Project.	Justified inconsistency - The 7.1ha site is mapped as Regionally Significant Farmland under the Northern Rivers Farmland Protection Project. The inconsistency with the 117 Direction is justified as follows: - The subject land is identified in the Lismore Growth Management Strategy (GMS) 2015 – 2035 for potential one or two lots (large residential lots). The GMS was assessed for compliance with the Northern Rivers Farmland Protection Project – Final recommendations prior to its approval by the Department of Planning and Environment. - The planning proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in SEPP (Rural Lands) 2008. - The planning proposal is consistent with the FNCRS Chapter 7 Settlement and Housing Outcomes. The strategy identifies that: <i>Rural residential development will continue as a housing choice for people in the region. In the future such development will be located close to existing centres, avoiding areas of significant environmental and landscape value, and significant natural resources (including high quality agricultural land). An adequate level of services will be provided to meet the community's needs.</i> - The planning proposal represents a minor extension of the existing large lot residential estate identified in the Housing Map in Section 7 of the FNCRS.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable	Not applicable

Ministerial Directions	Requirements	Compliance
5.9 North West Rail Link Corridor Strategy	Not applicable	Not applicable
6. Local Plan Making		
6.1 Approval and Referral Requirements	- A planning proposal should not contain provisions requiring concurrence, consultation or referral of a Minister or public authority without approval from the relevant Minister or public authority; and the Director General of the Department of Planning & Environment. - Not identify development as designated development unless justified.	Consistent There are no referral or concurrence requirements in the planning proposal. The proposal does not identify development as designated development.
6.2 Reserving Land for Public Purposes	A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Director General of DP&E.	Consistent No land is proposed to be zoned for public recreation purposes. This is consistent with the Lismore Growth Management Strategy 2015 - 2035.
6.3 Site Specific Provisions	Not applicable	Not applicable
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	Not applicable	Not applicable