

Lismore LEP 2012 - Rezone Lot 1 DP 594309, 116 James Street Dunoon from RU1 Primary Production to RU5 Village

Proposal Title : Lismore LEP 2012 - Rezone Lot 1 DP 594309, 116 James Street Dunoon from RU1 Primary Production to RU5 Village

Proposal Summary : To rezone Lot 1 DP 594309, 116 James Street, Dunoon from zone RU1 Primary Production to zone RU5 Village, reduce the minimum lot size from 20 hectares to 1 hectare and apply a building height limit of 8.5 metres.

The amendment will facilitate the subdivision of the site into one additional lot for the purpose of a dwelling.

PP Number : PP_2017_LISMO_003_00 **Dop File No :** 17/05813

Proposal Details

Date Planning Proposal Received : 18-Apr-2017 **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 : 116 James Street

Suburb : **City :** Dunoon **Postcode :** 2480

Land Parcel : Lot 1 DP 594309

DoP Planning Officer Contact Details

Contact Name : Jenna McNabb

Contact Number : 0266416600

Contact Email : jenna.mcnabb@planning.nsw.gov.au

RPA Contact Details

Contact Name : Sally Slater

Contact Number : 0266250407

Contact Email : sally.slater@lismore.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Gina Davis

Contact Number : 0267019687

Contact Email : gina.davis@planning.nsw.gov.au

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	1
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's Code of Conduct in relation to communication 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 : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other agencies and lobbyists concerning the proposal.**

Supporting notes

Internal Supporting Notes : **A development application for a single lot subdivision was lodged concurrently with Council at the time of the planning proposal. The development application is not considered in this report.**

External Supporting Notes :

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 facilitate the subdivision of the land into one additional lot for the purposes of a dwelling.**

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

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

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

6.3 Site Specific Provisions

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 (Rural Lands) 2008

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 : **Refer to the assessment section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The Planning Proposal includes maps that identify the site, current and proposed zone, minimum lot size and height of building standards. These are considered adequate for exhibition purposes.**

Maps which comply with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' would need to be prepared for the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A period of 28 days community consultation has been nominated by Council, including public advertising and adjoining landowner notification.**

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 and consistent with the strategic planning framework. The proposal does not reclassify land or present infrastructure servicing issues. It is therefore considered that a community consultation period of 14 days is adequate. However there is no impediment to Council conducting a longer community consultation period if they so wish.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time-line.**

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

The RPA has provided a project timeline which estimates that the LEP will be ready for notification in August 2017. To ensure an adequate period to finalise the proposal, a 9 month timeframe is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Lismore LEP 2012 was notified on 22 February 2013.**

Assessment Criteria

Need for planning proposal :

The planning proposal seeks to:

- Rezone Lot 1 DP 594309 from RU1 to RU5;**
- Apply a 1 hectare minimum lot size (MLS); and**
- Apply a 8.5m maximum building height;**

The application of a 1 hectare MLS will allow the subdivision of the site to facilitate the creation of one additional lot and dwelling.

The proposal to rezone the land is the best means of achieving the intent of the proposal which is to a minor extension of the village area with one additional dwelling / allotment.

The proposal results from the outcomes of Council's Growth Management Strategy 2015-2035. This Strategy identified the land for village expansion. The owners of the subject land have initiated a planning proposal for the rezoning of Lot 1 DP 594309, 116 James Street, Dunoon in accordance with this strategy. The land is currently zoned RU1 Primary Production with a minimum lot size (MLS) of 20ha. No maximum building height applies to the land.

The subject land is approximately 2 hectares in size and is located adjacent to horticultural land and has frontage to James Street. The land is currently zoned RU1 Primary Production and is undulating with a large gully running in an east/west direction,

dissecting the land into roughly two equal parts, leading to an Intermittent Class 1 watercourse in the north west corner. The land currently accommodates a single dwelling, swimming pool and garden shed in the north eastern corner of the site, and comprises maintained grassland as well as areas of bamboo and planted rainforest.

The other land uses in the general vicinity of the site include primary production and village. The land to the west, north and east of the site is predominantly horticultural land. To the south of the site is the Dunoon village area which is zoned RU5.

The entire site is defined as 'Regionally Significant Farmland' under the provisions of the Northern Rivers Farmland Protection Project. This is discussed further in the 'environmental impacts' section of this report.

The subject site is identified as bushfire prone land. A referral to the NSW Rural Fire Service is required, with the planning proposal amended accordingly, post-Gateway determination and prior to public exhibition to determine consistency with Section 117 Direction 4.4 Planning for Bushfire Protection.

The site is not identified within the Flood Planning Area of the Lismore LEP but is affected by an existing creek.

Following a site inspection by Council's ecologist, the area subject to the rezoning has been confirmed as having low ecological value as the site has been heavily disturbed and comprises primarily exotic pasture, landscape plantings and weed species, including Camphour Laurel.

Consistency with
strategic planning
framework :

*** North Coast Regional Plan 2036**

The proposal is consistent with the North Coast Regional Growth Plan (NCRP) other than a small part of the land which is located outside the urban growth boundary. This is discussed in more detail below in regard to s117 Directions. The entire area of the land is mapped as regionally significant farmland in accordance with the Northern Rivers Farmland Protection Project (NRFPP). The proposal has considered the 'Important Farmland Interim Variation Criteria' under the NCRP and is considered to be a suitable example of an appropriate variation for the following reasons:

1. The site has been developed with a dwelling and shed and is thus considered to have limited agricultural potential. The land was separated from contiguous horticultural uses into the current 2ha lot by way of subdivision in 1977;
2. The soils are not suitable for commercial cultivation or horticulture due to the steep slope and proximity to intermittent watercourse located in the northwest corner of the site;
3. The land does not meet the key biophysical thresholds for prime crop and pasture land according to the NSW Agricultural land classification 2002;
4. The risk of land use conflict occurring is relatively low. Council has identified that a 30m vegetated buffer is an appropriate and effective means of mitigating any land use conflict from the adjoining macadamia farm operations. Only the southern boundary of the site abuts land in a rural zone and is buffered from this land by an unformed Crown road and steep slope. The land has also been identified for subdivision in Council's LGMS;
5. Appropriate infrastructure is available to service an additional dwelling;
6. The subject land does not contain vegetation of high environmental value and is not expected to have Aboriginal or historic heritage significance; and
7. The land is not flood prone, is not highly erodible and does not contain acid sulfate soils. The land is partly bushfire prone however it is considered that this constraint can be mitigated.

*** Lismore Growth Management Strategy 2015-2035**

The proposal implements the recommendations of the Lismore Growth Management Strategy 2015-2035, which was conditionally endorsed by the Department in August 2015. The Strategy identifies the site specifically as suitable for one additional large residential lot as part of the expansion of the Dunoon village area.

Whilst this land is included in the Strategy, the Department issued its endorsement on the requirement that all mapped regionally significant farmland would not be included in any land release planning proposals until the review of the Regional Strategy and Farmland provisions had been completed. The interim variation criteria has now been released in the North Coast Regional Plan. The planning proposal addresses these criteria and demonstrates that the proposal can meet the draft farmland variation criteria.

*** SEPPs**

The proposal lists the following State Environmental Planning Policies (SEPPs) that are applicable to the land:

SEPP 44 Koala Habitat Protection

The site is not mapped as containing primary or secondary Koala habitat. A site inspection by Council's Ecologist indicated a small number of Koala food trees were present on the site but that these did not appear to support any permanent koala populations. It is not anticipated that a significant number of trees will be removed as part of the future subdivision and development of the site and any impacts of future development on koala habitat in the vicinity of the site can be addressed at development application stage.

SEPP 55 Remediation of Land

The proposal states that a preliminary contaminated land assessment has been undertaken and concludes that the land does not require remediation and is suitable for residential habitation. If the site for the future dwelling changes from that shown on the preliminary lot layout supplied with the application, further soil testing in the vicinity of any future dwelling may be required at the development assessment stage.

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) contains Rural Planning Principles to guide development on rural land. While the proposal is generally consistent with many of the principles, it is unable to satisfy all the principles due to the zoning of existing rural land into a village zone and the theoretical removal of rural land from primary production.

The planning proposal will result in the potential for one additional dwelling on land adjoining rural land which may generate land use conflict. However, the risk of conflict occurring is relatively low given that only the southern boundary of the site abuts land in a rural zone and is buffered from this land by an unformed Crown road and steep slope.

The proposal is otherwise consistent with State Environmental Planning Policies.

*** SECTION 117 DIRECTIONS**

A number of S117 Directions apply to this Planning Proposal. The proposal is considered to be consistent with all relevant s117 Directions except in relation to the following:

Direction 1.2 Rural Zones

The proposal is inconsistent with this direction as it proposes to rezone land from a rural zone to a village zone, and increase the permissible density of the site. This inconsistency is of minor significance as the subject site is identified in the Lismore Growth Management Strategy and is an extension of the existing zone RU5 Village area.

Direction 1.5 Rural Land

The proposal is inconsistent with this direction as it is unable to comply with all of the rural planning principles as discussed above in regard to SEPP (Rural Lands). The inconsistency is of minor significance as the subject site is identified in the Lismore Growth Management Strategy and is an extension of the existing RU5 Village area. The subject site area is identified as regionally significant farmland, however as discussed above, the proposal is considered to be consistent with the NCRP 2036 'Important Farmland Interim Variation Criteria'.

Direction 4.3 Flood Prone Land

The proposal is inconsistent with this Direction as it rezones an existing creek line that would be subject to flood waters to village and increases the development potential of the land. This inconsistency is considered to be of minor significance as the proposal is only facilitating one additional lot and dwelling, with ample room on the new lot to locate the dwelling clear of any flood water.

Direction 4.4 Planning for Bushfire Protection

This direction is applicable to the proposal as the land has been mapped as bushfire prone. A preliminary Bushfire Hazard Assessment has been prepared for the proposal. 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.

Direction 5.1 Implementation of Regional Strategies

The proposal is inconsistent with the Direction as it involves rezoning land to village that is: outside the town and village growth boundary; regionally significant farmland; and affected by flooding. This inconsistency is considered to be of minor significance as the Far North Coast Regional Strategy has been superseded by the release of the North Coast Regional Plan 2036.

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

The proposal is inconsistent with this Direction as it is not consistent with the Far North Coast Regional Strategy and the Farmland Mapping Project Recommendations. This Direction is currently being updated to reflect the recently released North Coast Regional Plan 2036. Until this Direction has been updated the inconsistency will remain unresolved.

Direction 5.10 Implementation of Regional Plans

Environmental social
economic impacts :

The proposal is inconsistent with this Direction as a small part of the land is located outside the identified growth boundary area. This inconsistency is considered to be of minor significance as the proposal is consistent with Council's Department approved local growth management strategy.

The proposal is otherwise consistent with s117 Directions.

Environmental

The proposal is not expected to have any adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

The proposal indicates that Council's Ecologist has inspected the site and concluded that no further technical reporting is required as the site has been extensively disturbed in the past and comprises mostly native vegetation regrowth. There is sufficient land area available that any future dwelling will not have a detrimental impact on the existing Koala food trees and dry rainforest on the site.

Geotechnical

A gully runs in a north westerly direction and dissects the site effectively in half. A first order stream is located in the north west corner. The slope is gentle and undulating adjacent to James Street and changes to an estimated 20% grade running down towards the gully.

The site is not mapped as being a site of potential mass movement and does not contain acid sulfate soils. Sufficient land also exists to locate a future dwelling above any flooding that may be associated with the stream.

Bushfire

A majority of the land is mapped as being Vegetation Category 2 and Vegetation Buffer. A Bushfire Hazard Assessment was submitted to Council as part of the proposal and indicates that future development will be able to meet the requirements of Planning for Bushfire Protection 2006. The planning proposal will require referral to the NSW Rural Fire Service due to the land being bushfire prone.

Social and Economic

The planning proposal has given consideration to social and economic impacts of the proposed amendment. The proposal will facilitate the development of 1 additional lot which is likely to have a positive economic impact and increase housing choice in the area.

Due to the minor scale and nature of the planning proposal, it is not considered there will be any adverse impacts on the natural, built or socio-economic environment. It is noted that Council intends to refer the proposal to the Department of Primary Industries - Agriculture. No objection is raised.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d)	NSW Department of Primary Industries - Agriculture NSW Rural Fire Service		

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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. :

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
2017-04-18 Council report (vA6381224).pdf	Proposal	Yes
2017-04-18 Information Checklist (vA6381223).pdf	Proposal	Yes
2017-04-18 Planning Proposal.pdf	Proposal	Yes
Cover Letter.pdf	Proposal Covering Letter	Yes
Pro-Forma Minutes of Lismore City Council - 11 April 2017.pdf	Proposal	Yes
Evaluation Criteria for the Delegation of Plan Making Functions.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.2 Mine Subsidence and Unstable Land
- 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
- 6.3 Site Specific Provisions

Additional Information :

- 1. The Planning Proposal be supported.
- 2. The Planning Proposal be exhibited for 14 days.
- 3. The Planning Proposal be completed within 9 months.
- 4. The Secretary (or her delegate) note the current unresolved inconsistencies with Directions 4.4 Planning for Bushfire Protection and 5.3 Farmland of State and Regional Significance on the NSW Far North Coast.

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5. The Secretary (or her delegate) agree that the inconsistency of the proposal with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 4.3 Flood Prone Lands, 5.1 Implementation of Regional Strategies and 5.10 Implementation of Regional Plans are justified in accordance with the terms of the directions.

6. That consultation be undertaken with the following agencies:

- NSW Rural Fire Service; and
- Department of Primary Industries - Agriculture

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

Supporting Reasons :

The reasons for the recommendation are as follows:

1. Release of the land for rural residential purposes will provide housing opportunity in line with the RPA's Local Growth Management Strategy.

2. The land is relatively unconstrained and has been identified as generally suitable for large lot residential 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:

1 May 2017