

Report

Subject	Planning Proposal to rezone land at 116 James Street, Dunoon to RU5 Village
TRIM Record No	BP17/366:EF16/391
Prepared by	Strategic Planner
Reason	To obtain a Council resolution to support a planning proposal for the rezoning of 116 James Street, Dunoon to RU5 Village zone and seek a Gateway Determination from the Department of Planning and Environment.

Executive Summary

This report provides Council with an overview of a planning proposal for 116 James Street, Dunoon (Lot 1 DP 594309) that seeks to amend the Lismore Local Environmental Plan 2012 to enable a subdivision to create one additional allotment for a dwelling as follows:

- amend the zone applying to the land from RU1 Primary Production to RU5 Village zone
- amend the minimum lot size applying to the land from 20ha to 1ha
- apply a building height limit of 8.5 metres consistent with other land in the RU5 Village zone

Council staff have assessed the site and the proposal and found there are no constraints or issues to prevent progression of the planning proposal. It is recommended that Council support the planning proposal as part of the implementation of the Lismore Growth Management Strategy 2015-2035 and refer the proposal to the NSW Department of Planning and Environment for a Gateway Determination.

Recommendation

That Council:

1. support the planning proposal included at Attachment 1 of this report that proposes amendments to the Lismore LEP 2012 to facilitate the subdivision of Lot 1 DP 594309 at 116 James Street Dunoon to create one additional allotment for a dwelling
2. forward the planning proposal to the NSW Department of Planning and Environment with a request for a Gateway Determination
3. agree that staff can place the planning proposal on public exhibition and consult with Government agencies based on the Gateway Determination and report back to Council with any issues raised during public exhibition.

Background

On 22 November 2016 Council received a planning proposal to rezone 116 James Street, Dunoon (Lot 1 DP 594309). The site is presently in the RU1 Primary Production zone in the Lismore Local Environmental Plan 2012 as shown on Figure 1 with a minimum lot size of 20ha. The Planning Proposal was lodged with Council in combination with a development application for a one lot subdivision in accordance with Section 72J of the *Environmental Planning and Assessment Act 1979*. The assessment of the development application is not dealt with in this report. Figure 2 is an aerial image of the subject site.

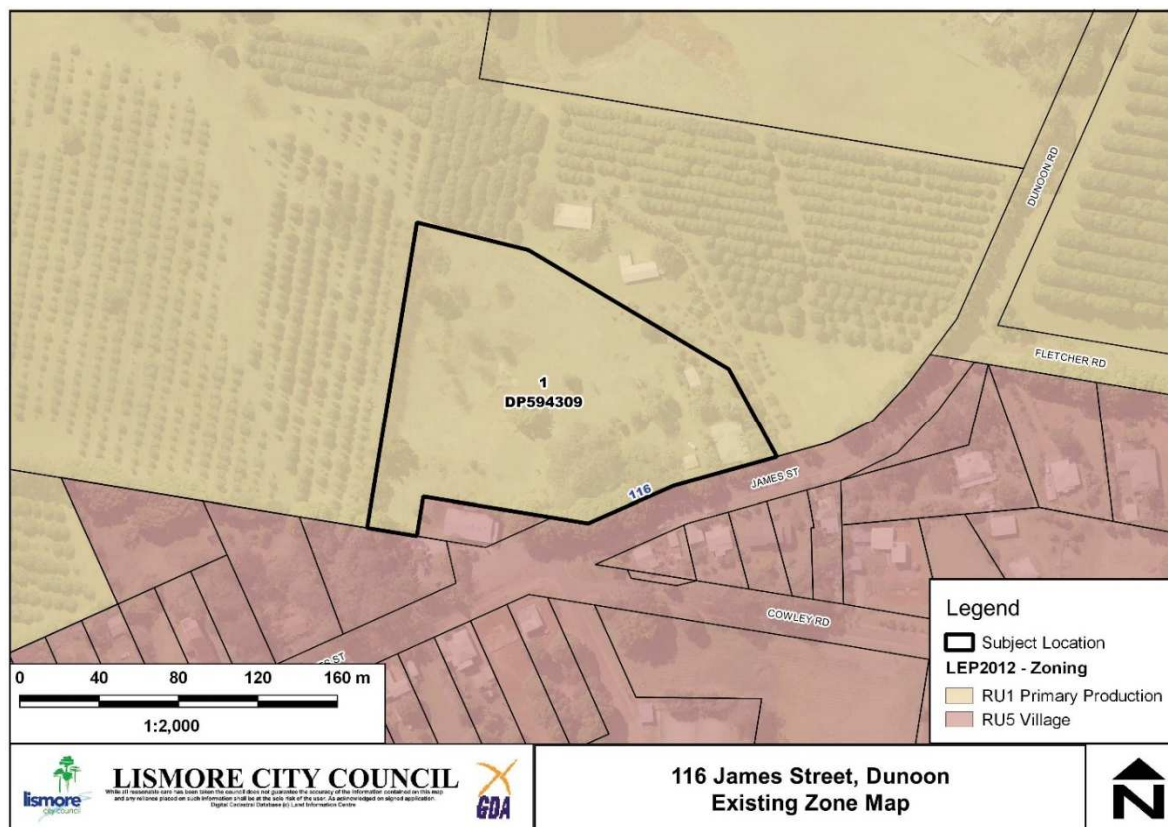


Figure 1: Current zone Lismore LEP 2012

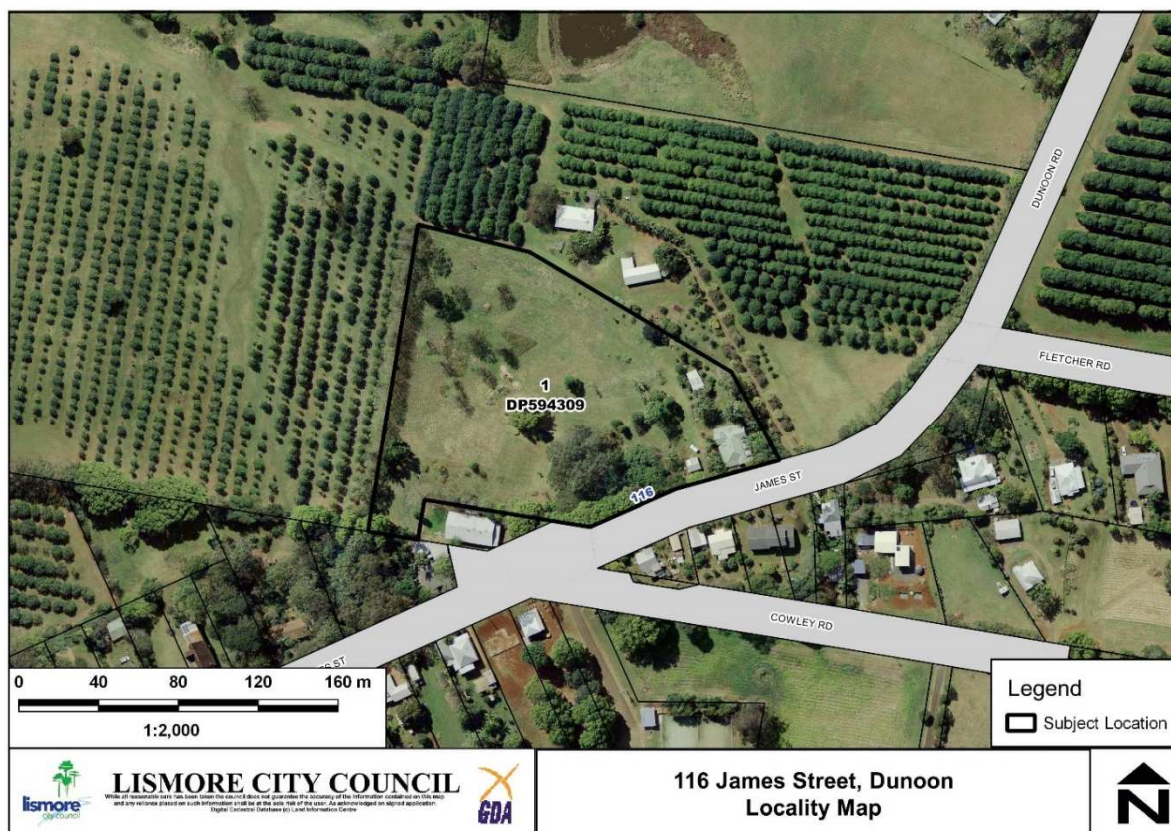


Figure 2: Aerial photo of 116 James Street, Dunoon

Lismore Growth Management Strategy

The Lismore Growth Management Strategy 2015-2035 (GMS) was adopted by Lismore City Council on 12 May 2015 and identifies land preferred for development for residential and employment purposes. The GMS was conditionally approved by the Department of Planning and Environment on 11 August 2015.

The subject site is specifically identified and discussed in the GMS as the only site in Dunoon that has potential for village expansion (see Figure 3 below 'Dunoon - Potential village'). The GMS states that this land will be the limit of Dunoon's expansion to the north "as the adjoining land and land further north is in active agricultural use", which is the reason for a recommended 30m buffer from the macadamia farm on the western and northern boundaries.

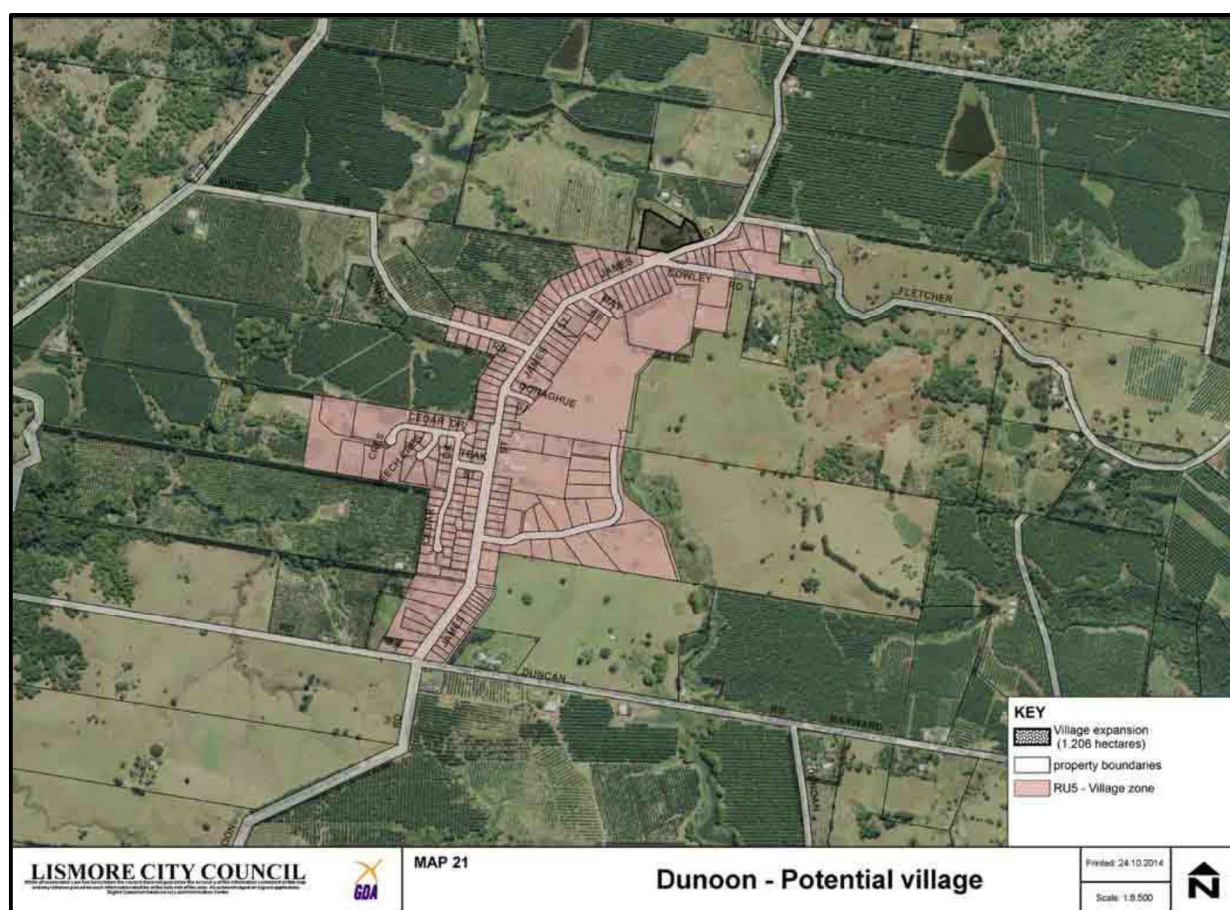


Figure 3: 116 James Street, Dunoon in GMS 2015-2035

Characteristics of the subject site

Figure 3 above shows the site in the context of the broader locality, which is dominated by macadamia farms and other agricultural uses. The subject land is located on the northern edge of the Dunoon village, adjacent to horticultural land uses (macadamia orchards) and the Community Hall. The site has frontage to James Street which is the main thoroughfare through Dunoon that turns into Dunoon Road on either side of the town.

The land subject to this proposal totals 2 hectares in area and currently accommodates a dwelling, swimming pool and garden shed in the north eastern corner of the site. The site mainly comprises maintained grassland as well as areas of bamboo and planted rainforest including Hoop pines. The land is also used periodically to agist 3-4 horses.

The topography of the site is undulating with a large gully running in an east/west direction, dissecting the land into two roughly equal parts, leading to an intermittent Class 1 watercourse in the north western corner.

Environmental, Social and Economic Impact Assessment

Environmental and physical constraints

Biodiversity

Following a site inspection, Council's Ecologist has confirmed that the area subject to rezoning has low ecological value as the site has been heavily disturbed and comprises exotic pasture, landscape plantings and weed species including Camphor Laurel adjacent to the James Street frontage.

The site was surveyed for Hairy Joint Grass and no occurrence of the species was recorded.

Council's GIS mapping does not show koala habitat being evident on the site. Notwithstanding this, Council's Ecologist observed a grouping of mature Tallowwood koala habitat food trees in the south eastern corner of the site. These trees are likely to be used by Koalas occasionally traversing the site. This view is based on observations from the landowners and a lack of available habitat and fragmented vegetation, as assessed by Council's Ecologist.

It is noted that this proposal will not affect the koala food trees observed on site because they do not occur near the proposed driveway and potential dwelling site. The only trees expected to be removed as part of this proposal (for construction of the driveway) are exotic species.

No further technical reporting on ecology is required.

Regionally Significant Farmland

The whole site is defined as 'Regionally Significant Farmland' according to the Northern Rivers Farmland Protection Project (NRFPP) as shown in Figure 4 below.

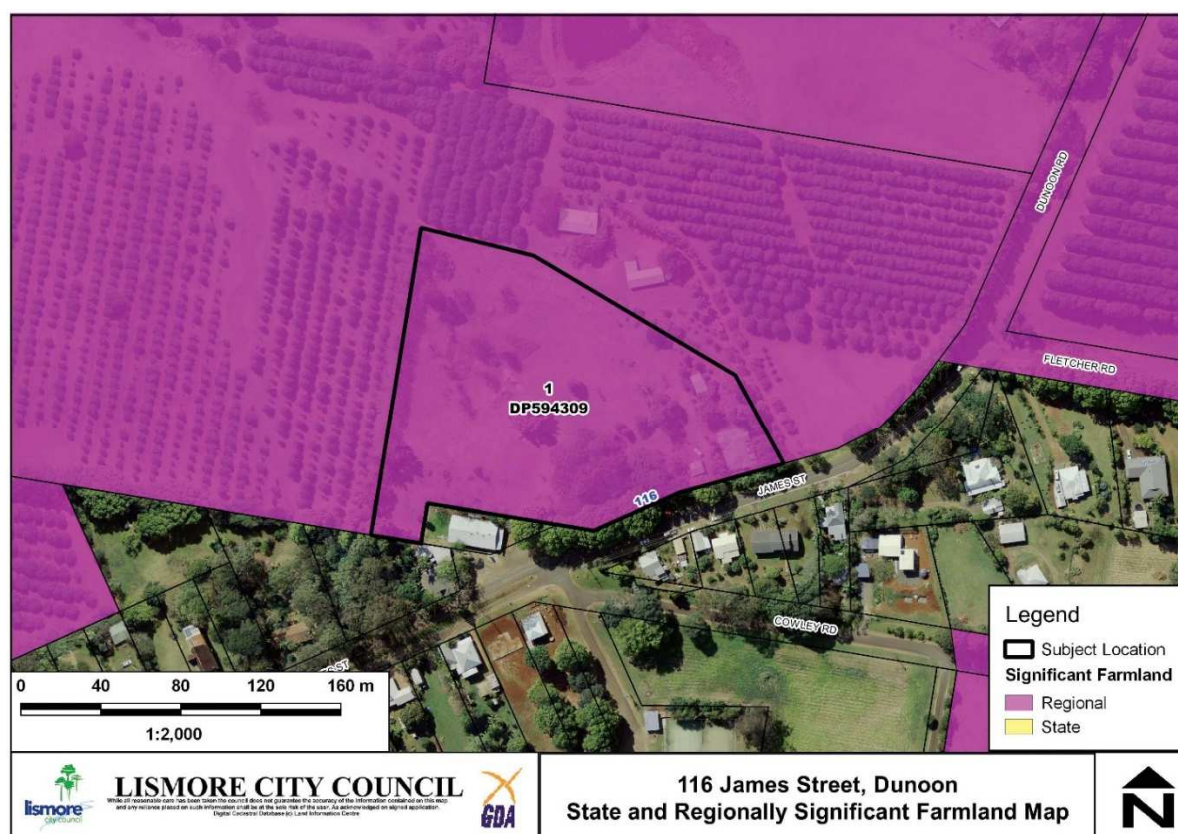


Figure 4: Regionally Significant land at 116 James Street, Dunoon

The NRFPP outlines planning principles to be applied in instances when regionally significant farmland may be included in an urban settlement strategy. These principles were applied in justifying this site for inclusion in the GMS for 'village expansion'. Moreover, this planning proposal is consistent with these principles for the following reasons:

- by way of its 1977 subdivision, the land has previously been fragmented from contiguous horticultural uses into a 2ha allotment and subsequent development with a dwelling.
- the soils are not suitable for commercial cultivation or horticulture due to the steep slope and proximity to the intermittent watercourse located in the northwest corner.
- the land does not meet the key bio-physical thresholds for prime crop and pasture land according to the NSW Agricultural land classification 2002.
- the proposal is minor in nature and the likely impacts of one additional dwelling on adjoining horticultural uses are insignificant
- an appropriate buffer to intensive agriculture (macadamia orchards) has been assessed as an effective means to reduce potential for land use conflict.

Bush Fire Prone Land

Most of the perimeter of the site is mapped as bushfire prone land, mainly in the Vegetation Buffer category and a small portion in Vegetation 'Category 2' as shown in Figure 5. A Bushfire Threat Assessment has been submitted as part of this proposal which indicates that the proposed development will comply with Planning for Bushfire Protection 2006. Measures that will be provided to ensure compliance include appropriate Asset Protection Zone/s, water supply, construction standards, landscaping and access.

The planning proposal will require referral to the NSW Rural Fire Service due to the land being identified as prone to bushfire.

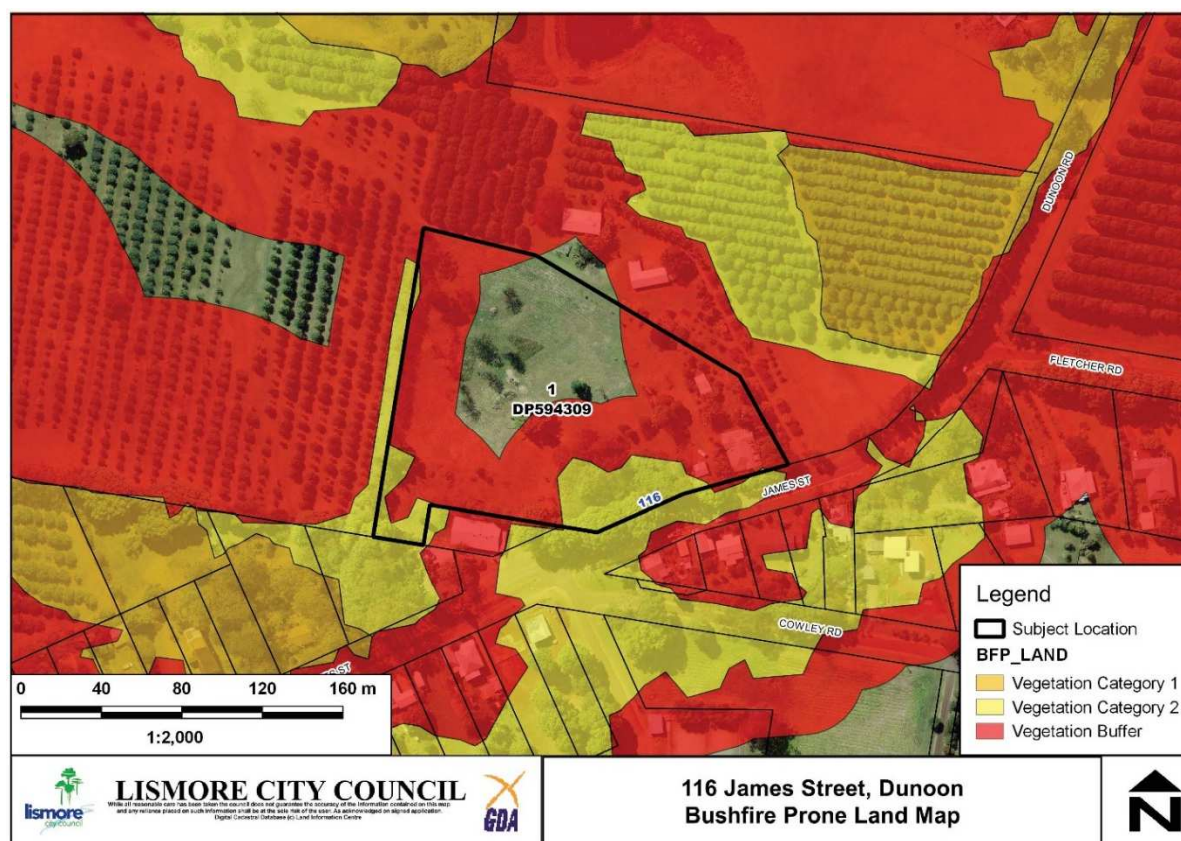


Figure 5: Bushfire prone land 116 James Street, Dunoon

Land Contamination

A preliminary contaminated land assessment has been prepared which outlines the soil sampling methodology undertaken on site in the location of the proposed dwelling and surrounds.

The chemicals tested for were ones likely to be used during the previous agricultural/horticultural operations on the site. Council's Environmental Health Officer (EHO) has reviewed the report and advises that the sampling did not identify any chemicals above the health investigation levels for residential development.

No further technical reporting is required.

Geotechnical Hazards

The site is characterised by a gully that runs in a north westerly direction and dissects the site into approximately equal parts. A first order stream is located in the north western corner. The slope is gentle to undulating adjacent to James Street and changes to an estimated 20% grade running down towards the gully. The site does not comprise areas of mass soil movement. Figure 6 over the page shows the drainage, slope and contours at the site.

The proposed dwelling site is shown on the preliminary site plan as located in an area with a gently undulating slope.

No further technical reporting on geotechnical hazards is required.

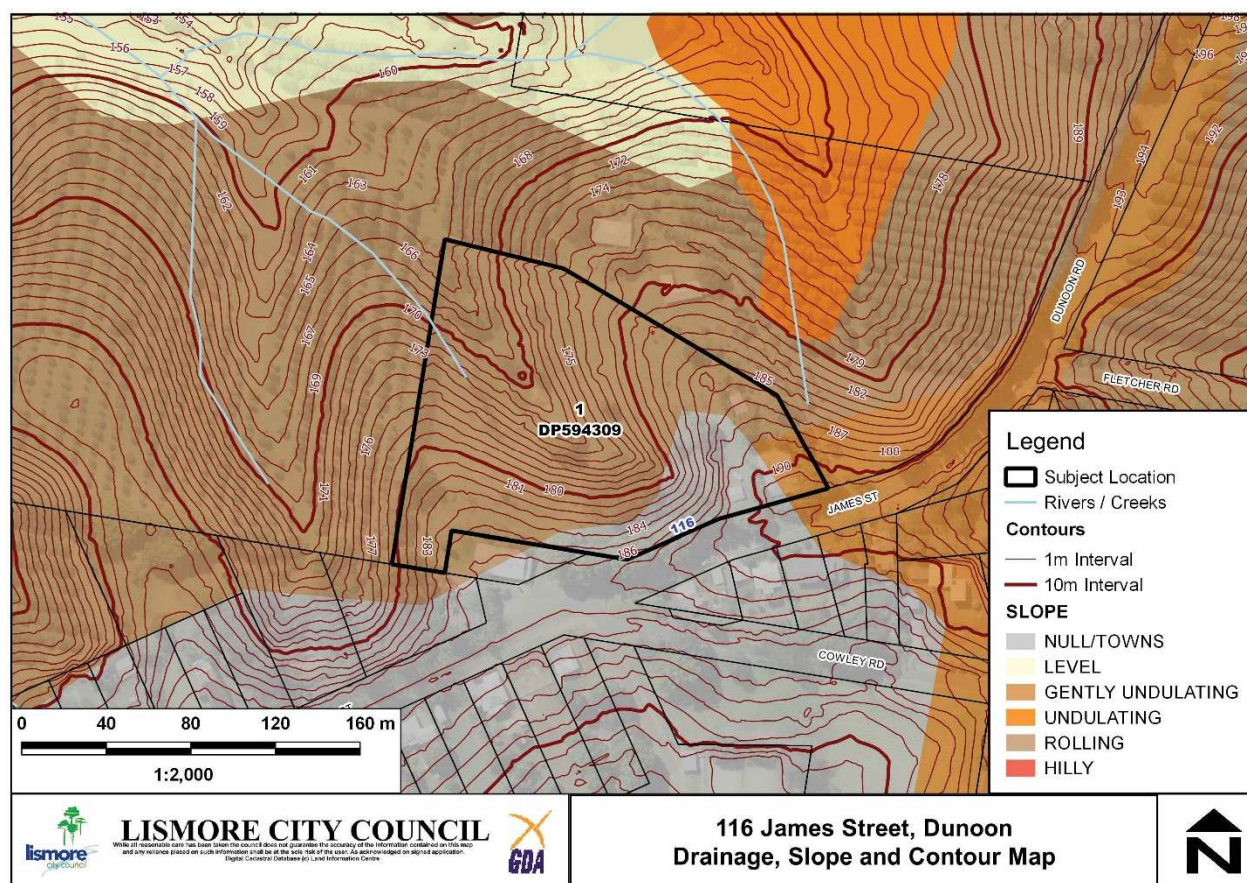


Figure 6: Drainage, Slope and Contours for 116 James Street, Dunoon

Land use conflict

The planning proposal will result in an additional dwelling on land adjoining rural land which has the potential to generate land use conflict.

Lismore City Council

Meeting held 11 April 2017 - Planning Proposal to rezone land at 116 James Street, Dunoon to RU5 Village

Council's EHO has advised that the DCP Chapter 11 'Buffers' requires a 150m buffer between residential and intensive agriculture uses that can be reduced to 80m where a biological buffer of 30m is planted. In this instance, the 30m biological buffer is deemed an acceptable outcome given that:

- the Land Use Conflict Resolution Assessment (LUCRA) has assessed the potential for land use conflict to be low and acceptable;
- this buffer is consistent with the recommendation in the GMS for a 30m wide planted biological buffer along the western and northern boundaries to separate the new residential use from the existing macadamia orchard;
- the current landowners have lived here for many years and have not experienced land use conflict relating to the surrounding macadamia orchard operation;
- most of the existing residential development in Dunoon does not have a buffer to surrounding macadamia orchards. This has not resulted in complaints regarding spray drift, noise or similar amenity issues to Council's compliance area.

The Environmental Protection Agency (EPA), rather than Council, is the appropriate Regulatory Authority to deal with complaints under the NSW Pesticides Act 1999. Council staff contacted the EPA to obtain data about the extent of complaints and were advised that relatively few complaints have been received regarding insecticide spray drift from macadamia farms located adjacent to the Dunoon township. The EPA has advised Council that out of 10 complaints received since 2012 in this locality (extended to Rosebank), only 4 resulted from the spraying operations on macadamia farms adjacent to the Dunoon township. The remainder of complaints were directed toward operations undertaken on macadamia farms located in the greater Dunoon district.

Social, economic and cultural heritage impacts

Aboriginal and European Cultural Heritage

The site is not mapped in the LEP as containing any features or values in relation to Aboriginal or European cultural heritage. A search of the NSW Office of Environment and Heritage Aboriginal Heritage Information Management System (AIHMS) shows no records of Aboriginal sites or places on the site.

It is noted that the applicant consulted the Ngulingah Local Aboriginal Land Council (LALC) directly prior to lodging the Planning Proposal. The LALC advised that it is highly unlikely the land would contain any Aboriginal Cultural Heritage objects due to its location and past long term agricultural disturbance of the land.

Based on this advice, Council's Environmental and Cultural Heritage Contractor did not believe a site inspection was required or any further site assessment.

Therefore it is not anticipated that the Planning Proposal will have an adverse impact on cultural heritage that would warrant a formal referral to the Ngulingah LALC or the requirement for an Aboriginal Cultural Heritage Assessment.

No further technical reporting is required.

Social Impacts

Due to the minor nature and scale of the proposal there are not expected to be any adverse social impacts. The provision of one additional allotment for residential development will result in a slight increase to housing supply and choice in Dunoon.

Economic Impacts

It is expected that this planning proposal and its resultant residential development is likely to have a minimal but positive economic impact on Dunoon by generating additional economic activity from construction works.

Servicing and infrastructure

Water

The subject site is not currently serviced by reticulated water and is unable to be serviced in the future. Therefore, it is recommended that water be obtained through roof collection and stored in domestic rainwater tanks.

Sewerage

The site is not currently serviced by reticulated sewerage. Therefore, it is proposed to service future development through an on-site wastewater management system.

The preliminary on-site wastewater assessment identifies a reed bed system with Evapotranspiration (ETA) beds for disposal located within the proposed 30m biological buffer on the western boundary. However, Council's EHO has advised that this is not an acceptable location because ETA beds should be setback 5m from trees to avoid root intrusion. As an alternative location, the south western corner of the site would be appropriate given it is relatively flat and outside the 40m buffer to the first order stream.

The site is capable of accommodating a wastewater disposal system that supports the intended subdivision/residential development. The alternative location for the onsite wastewater disposal system can be confirmed through the submission of an amended onsite wastewater assessment when the development application is lodged for the dwelling. This issue does not preclude the land being suitable for the intended residential development.

No further technical reporting is required.

Storm water

Council's Strategic Engineer has advised that at the subdivision stage, the application will need to demonstrate that there will be no net increase in stormwater discharge from the development.

Roads and Traffic

The planning proposal will create the potential for one (1) additional allotment and generate an additional 4-6 vehicle movements per day, estimated to have a negligible impact on James Street.

It is proposed that the additional allotment be accessed from James Street near the existing Community Hall and Right of Carriageway (ROC) at the southern boundary of the lot. This has been determined as the most appropriate position because it minimises tree removal and substantial earthworks, utilises the existing ROC and achieves good site distances and visibility.

Given the slope, the applicant will need to ensure the access complies with the DCP, in particular, that the driveway grade is not greater than 25% and indicative long section and cross sections for the driveway will be required with the future development application.

A section 94 contributions plan for Lismore LGA was adopted by Council in 2014 which outlines contributions for public infrastructure that apply to new dwellings and lots.

Overview of the Planning Proposal

Based on the assessment of site constraints and servicing issues in the foregoing sections of this report, the following changes to Lismore LEP 2012 maps are proposed:

1. Amend the Land Zoning Map to change the zone from RU1 Primary Production to RU5 Village zone.
2. Amend the Lot Size Map to change the minimum lot size from 20ha to 1ha
3. Amend the Height of Buildings map to apply an 8.5 metre maximum building height to the land.

The maps are shown after Table 1 in Figures 7-12. The planning proposal does not propose to amend the Lismore LEP 2012 written instrument.

Table 1: Summary of planning proposal to rezone 116 James Street, Dunoon

PART	REQUIREMENTS	DESCRIPTION OF PLANNING PROPOSAL
1	OBJECTIVES OR INTENDED OUTCOMES	The objective of the planning proposal is to enable the subdivision of 116 James Street, Dunoon to create one (1) allotment for a dwelling.
2	EXPLANATION OF PROVISIONS	The planning proposal seeks to amend the following parts of the Lismore LEP 2012: Land Zoning Map - Sheet LZN_005 Lot Size Map - Sheet LSZ_005 Height Of Buildings Map - Sheet HOB_005 No amendments are proposed to the LEP written instrument.
3	JUSTIFICATION Section A- Need for the Planning Proposal <i>Is the planning proposal a result of any strategic study or report?</i> <i>Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</i>	The land is identified in the Lismore GMS as having potential for further subdivision. The Planning Proposal is the best means to achieve the objective because rezoning of the land is required to enable further subdivision.
4	JUSTIFICATION Section B- Relationship to Strategic Planning Framework <i>Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?</i> <i>Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan?</i> <i>Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPP)?</i> <i>Is the Planning Proposal consistent with applicable s117 Ministerial Directions?</i>	This proposal is consistent with the North Coast Regional Plan because it has been identified in a Departmental approved Local Growth Management Strategy (Lismore GMS 2015-2035). This proposal is also consistent with the Goals and Actions of the North Coast Regional Plan (NCRP) (March 2017) with regard to locating new housing in and around existing towns where essential services and road infrastructure has been established. The planning proposal is consistent with Imagine Lismore's community vision and aspirations. This proposal is consistent with the relevant SEPP's as outlined in Attachment 1. This proposal is consistent or any inconsistency can be justified with applicable s117 Ministerial Directions as outlined in Attachment 1.
5	JUSTIFICATION Section C- Environment, Social and Economic Impact <i>Is there any likelihood that critical habitat of threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?</i>	Council's GIS mapping does not identify the site as containing Koala habitat. However, Council's Ecologist observed a grouping of Koala food trees that are likely to be used by Koalas traversing, rather than permanently occupying the site due to the lack of available habitat. This proposal is not expected to impact koala food trees as the only trees expected to be removed are exotic species.

PART	REQUIREMENTS	DESCRIPTION OF PLANNING PROPOSAL
	<i>Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed? Has the Planning Proposal adequately addressed any social and economic effects?</i>	Due to the part of the site subject to the rezoning being largely devoid of native vegetation, there are not expected to be any significant environmental effects. Environmental effects are discussed in detail in the Environmental, Social and Economic Impact Assessment above. The Ngulingah Local Aboriginal Land Council has confirmed that it is unlikely the site contains any objects of Aboriginal Cultural Heritage. Council's Environmental and Cultural Heritage contractor concurs with this advice. It is recommended that consultation is not required with the LALC nor is an Aboriginal cultural heritage assessment required. Due to the nature and scale of the planning proposal there are not expected to be any significant adverse social or economic effects.
6	JUSTIFICATION Section D - State and Commonwealth Interests <i>Is there adequate public infrastructure for the Planning Proposal?</i> <i>What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?</i>	Council staff have carried out a preliminary assessment of public infrastructure that is required and available. Commentary is included in the Environmental, Social and Economic Assessment section above. It is proposed that the public authorities listed below are consulted and that this consultation is undertaken concurrent with the public exhibition of the Planning Proposal: • Rural Fire Service and • Department of Primary Industries.
7	MAPPING	It is proposed to rezone the land to RU5 Village with a lot size of 1ha and height of building of 8.5 metres. Refer to LEP maps in the next section of this report.
7	COMMUNITY CONSULTATION	A 14 day community consultation period is recommended but this will be confirmed in the Gateway determination.
8	PROJECT TIMELINE	Recommendation of 12 months for completion. Refer to Attachment 1 for detail.
9	DELEGATIONS	Recommendation for Council to exercise plan making delegations.

Local Environmental Plan Maps

The proposed LEP maps are shown in Figures 7-12 below.

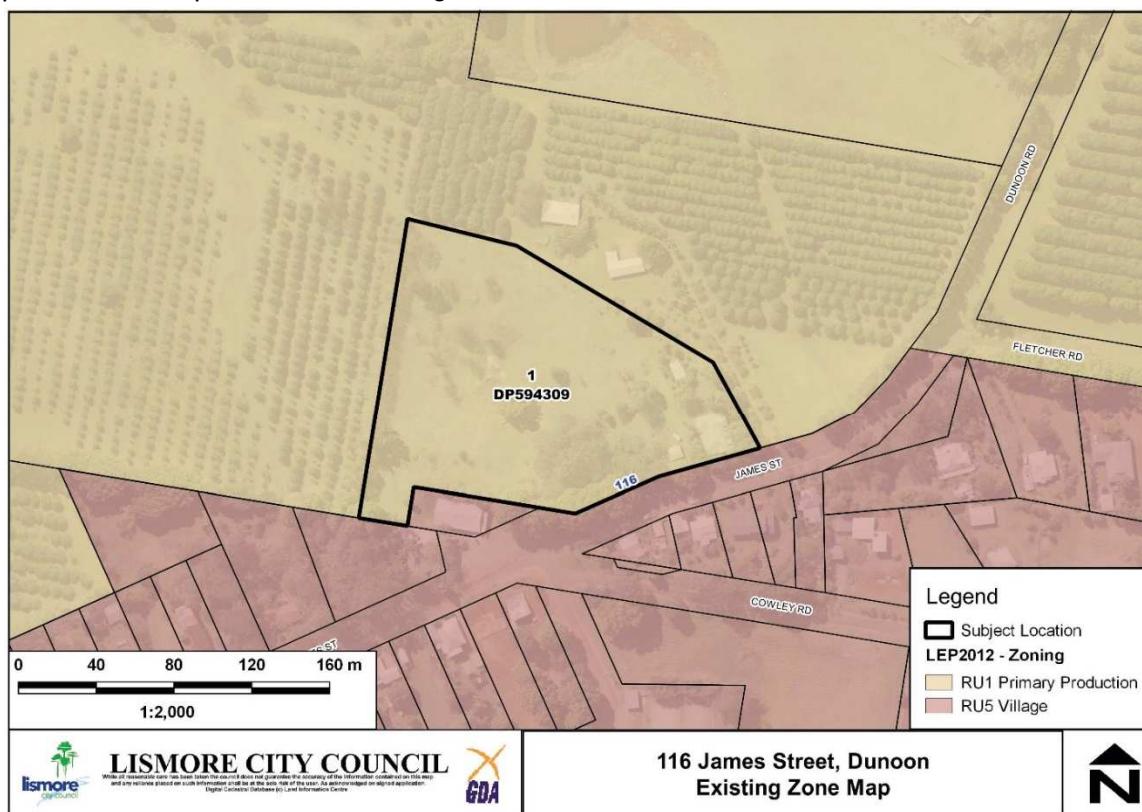


Figure 7: Existing Land Zoning

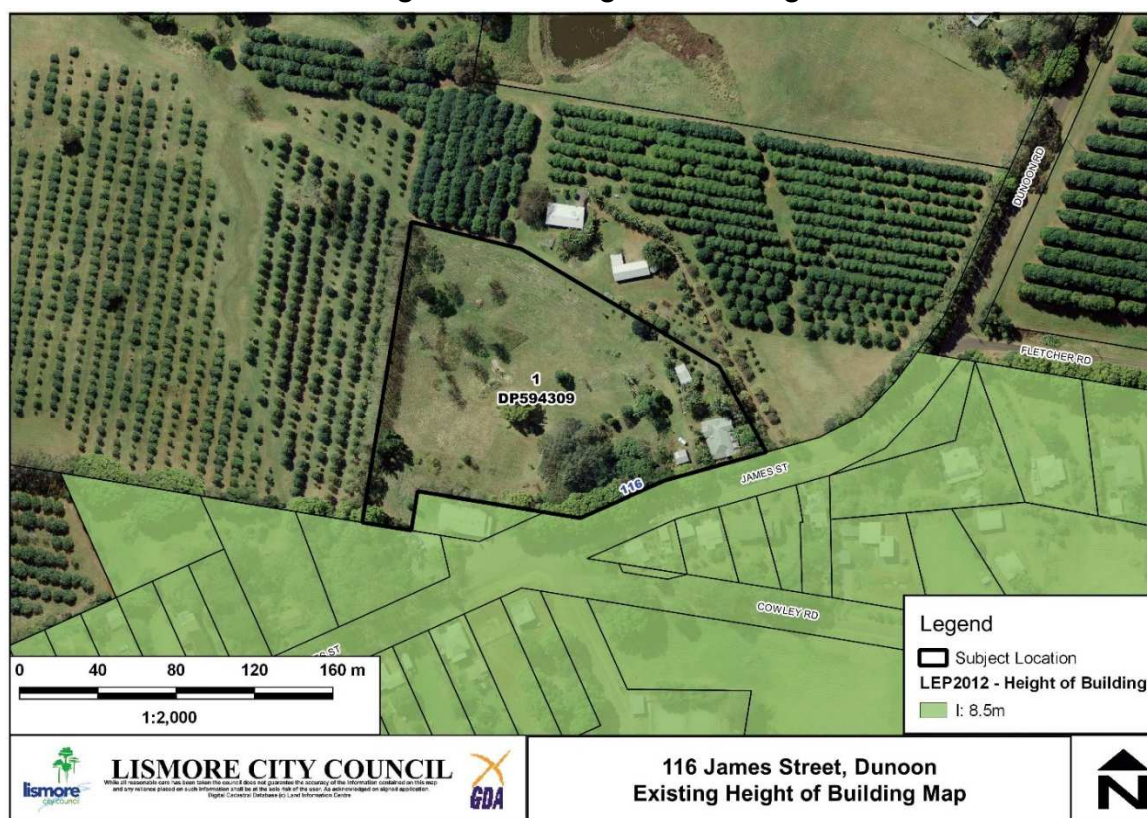


Figure 8: Existing Height of Buildings

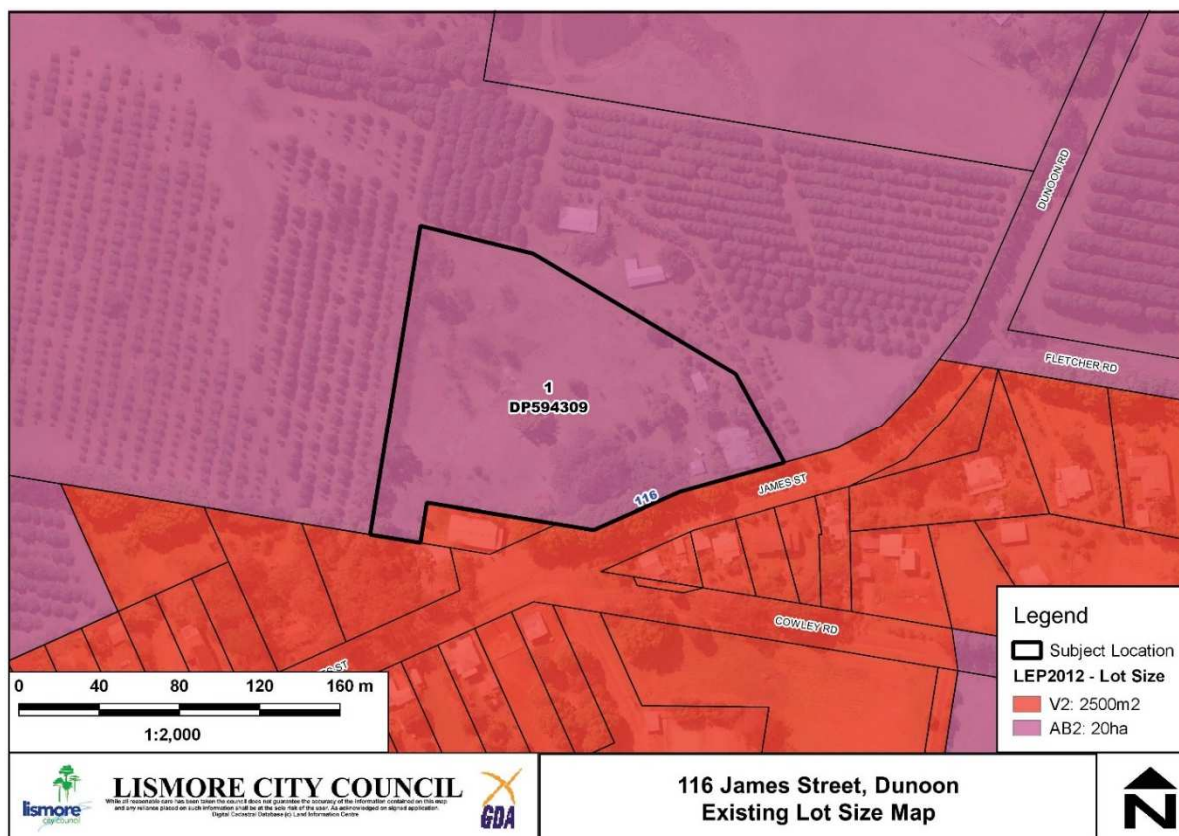


Figure 9: Existing Lot Size

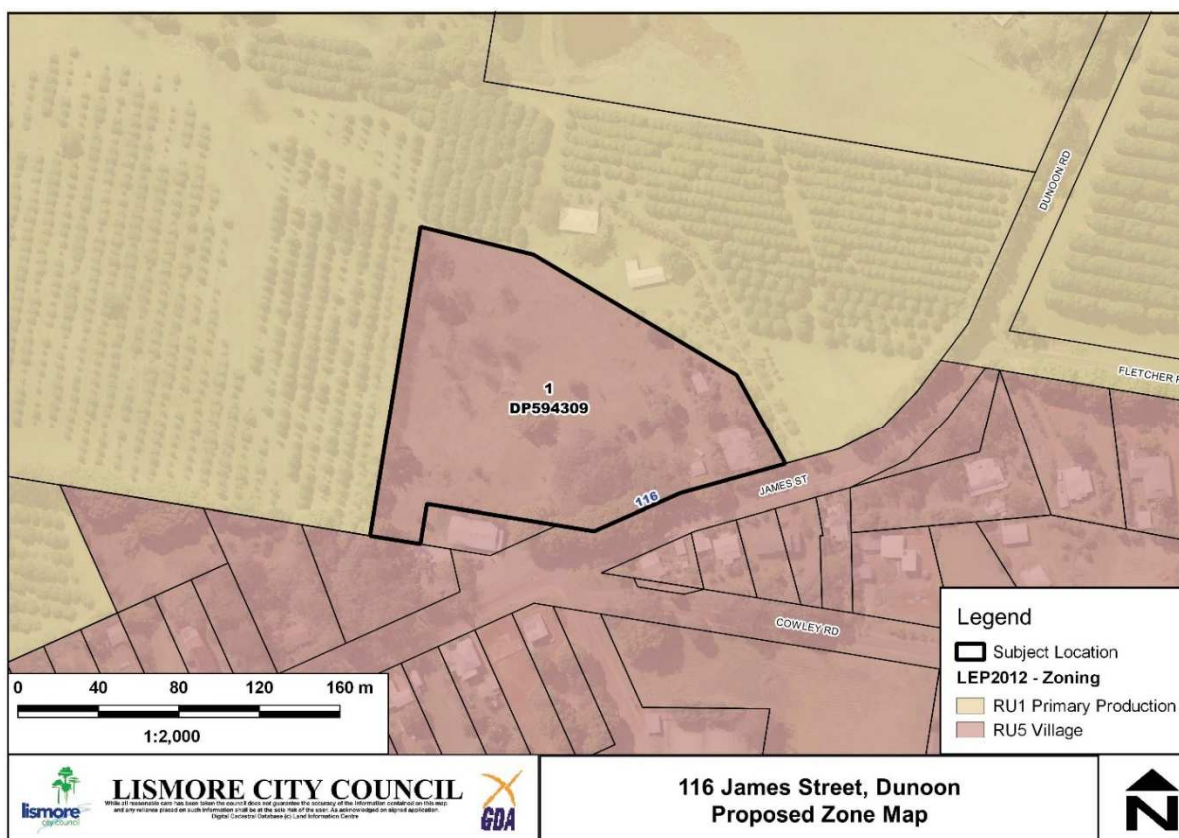
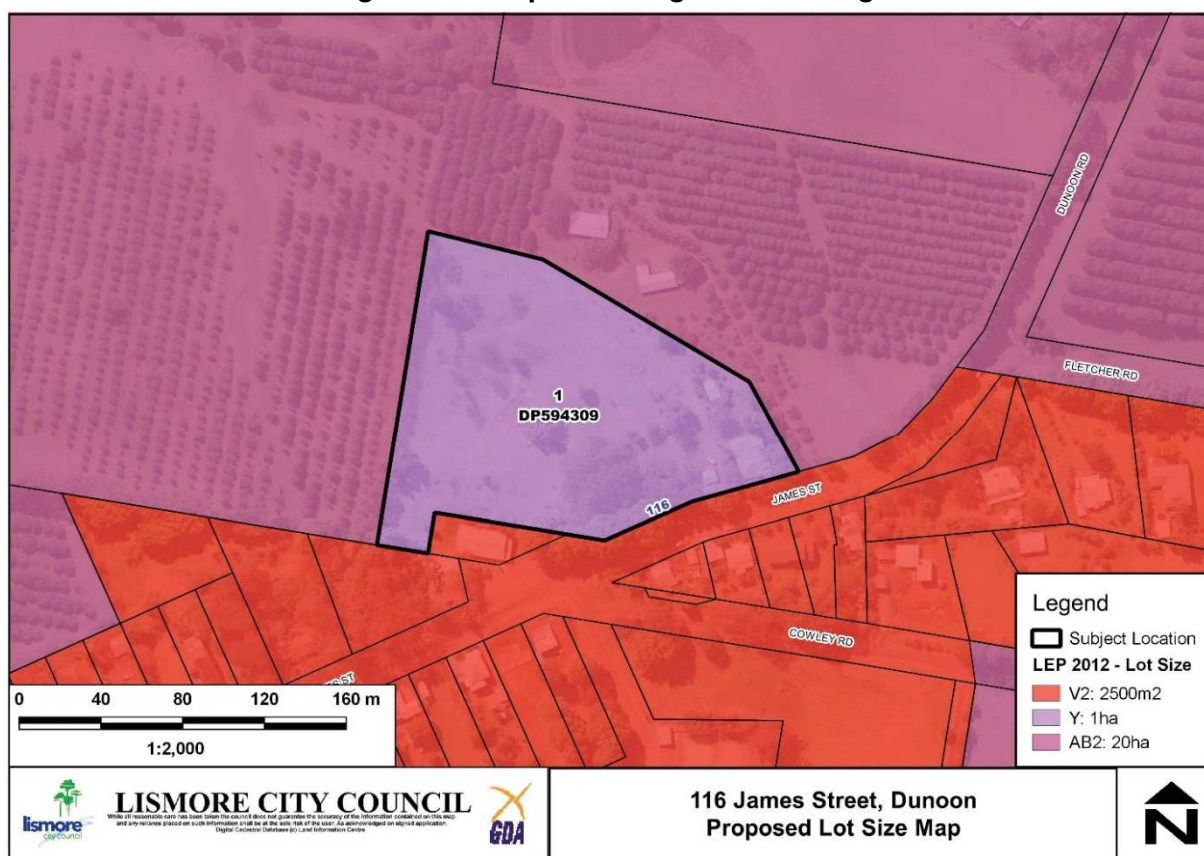
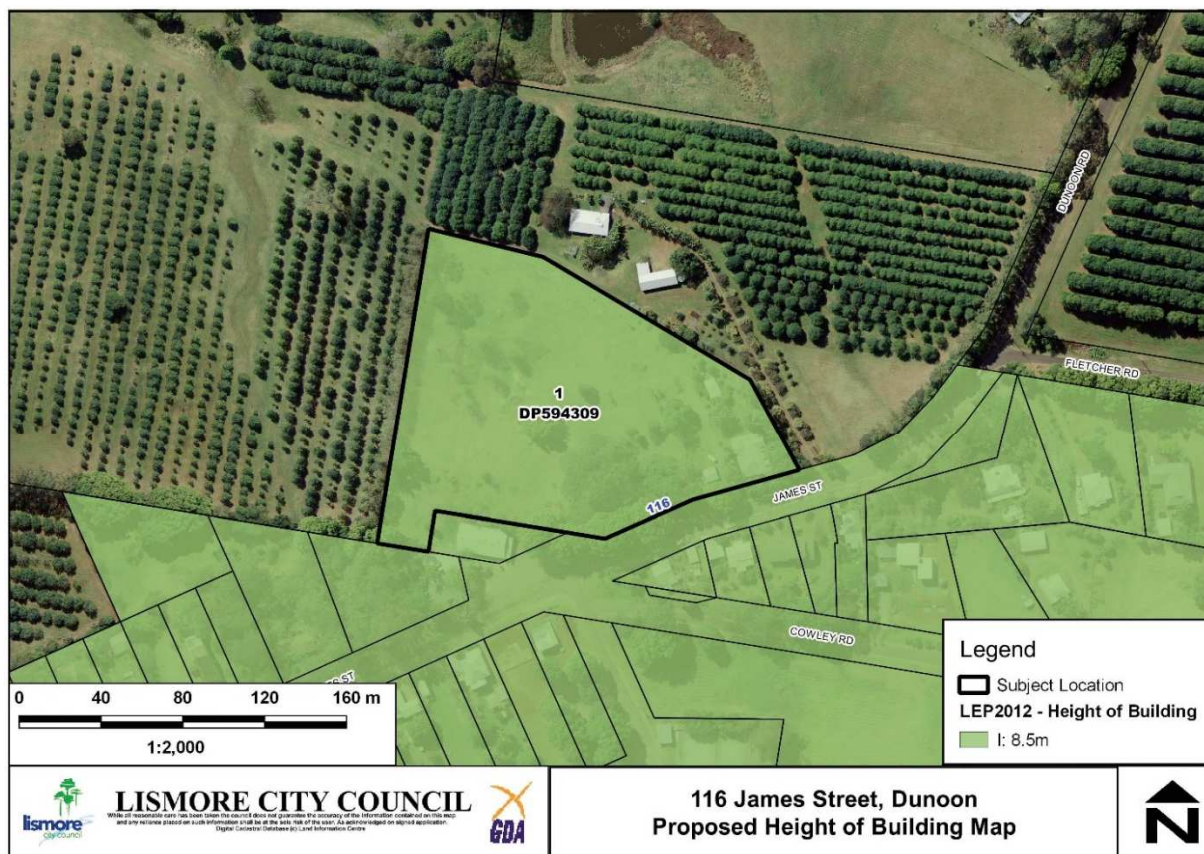


Figure 10: Proposed Land Zoning



Strategic Alignment

The Planning Proposal is consistent and implements the following sections of *Imagine Lismore 10 Year Plan*:

Community Vision: Affordable Housing

“Through the implementation of the Lismore Housing Strategy and the Growth Management Strategy we will ensure that Lismore provides housing options that are affordable, appropriate and accessible to the different economic and social needs of the community.”

Service: Strategic Planning, Assessment and Construction

“The Growth Management Strategy will be completed in 2014. The implementation of the Strategy will see the values of the community enshrined in Lismore’s planning framework.”

The Lismore Growth Management Strategy 2015-2035 clearly identifies the subject land on Map 21 “Dunoon – Potential Village” as having potential for village expansion. The GMS states on page 88 regarding the implementation of the GMS that, *“the rezoning of identified village and large lot residential expansion areas will occur by way of landowner initiated planning proposals.”*

Direct costs associated with the planning proposal are met by the proponent. The benefits of the proposal include the facilitation of the future development of land that has been identified in the GMS as being potentially suitable for village expansion.

The only risk associated with the proposal for Council is that the landholder decides not to proceed with development of the land as additional housing close to existing facilities and amenities is beneficial for the future of the village and the Local Government Area.

Comments

Finance

Not required.

Other staff comments

The Planning Proposal has been reviewed by Council’s specialist staff and their comments incorporated into the above environmental, social and economic assessment section.

Public consultation

Council will carry out public consultation on the planning proposal following Gateway Determination. For the purposes of public notification, it is considered that a fourteen (14) day exhibition period is appropriate. Notification of the planning proposal will include:

- Publication in Council’s Local Matters that circulates in the area affected by the planning proposal.
- Placing a notice on the websites of Council and the Department of Planning and Environment.
- Written notification to adjoining land owners.

The written notice will:

- Provide a brief description of the objectives or intended outcomes of the planning proposal.
- Indicate the land that is the subject of the planning proposal.
- State where and when the planning proposal can be inspected.
- Provide detail that will enable members of the community to make a submission.

Material to be exhibited will include:

- The planning proposal, in the form approved for community consultation by the Director General of the Department of Planning and Environment.
- The Gateway determination.
- Any studies required as part of the planning proposal.

Key stakeholders will be identified and contacted directly to ensure that they are aware of the planning proposal. The Gateway Determination will confirm community consultation requirements.

LEP delegations

Council resolved at its Ordinary meeting of 11 December 2012 to accept the delegations which enable Council to process the final stages of a planning proposal (LEP amendment). The delegations only extend to routine LEPs. Council does have delegation in this instance as it is a rezoning consistent with an endorsed strategy, unless the Gateway Determination advises otherwise.

Conclusion

The planning proposal seeks to amend certain provisions of the Lismore LEP 2012 that apply to 116 James Street, Dunoon to enable the subdivision of the site to create one (1) additional allotment for a dwelling. The planning proposal is consistent with the GMS which identifies the site as having potential for village expansion. There is sufficient information to enable Council to support the planning proposal and forward it to the Department of Planning and Environment for a Gateway Determination.

Attachment/s

1. Planning Proposal (Over 7 pages)