

## Planning and Assessment

### Gateway determination report

#### Lismore City Council Gateway determination: PP\_2010\_LISMO\_003\_00

**Purpose:** To recommend the Director, as delegate of the Minister, determine that planning proposal PP\_2020\_LISMO\_003\_00 should proceed.

**Analysis:** The planning proposal seeks to amend the zone, minimum lot size and height of buildings provisions on part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass. The planning proposal is considered to have merit and should proceed subject to conditions.

### 1. INTRODUCTION

<b>LGA</b>	Lismore City Council
<b>PPA</b>	Lismore City Council
<b>NAME</b>	Taylor Road (8 homes)
<b>NUMBER</b>	PP_2020_LISMO_003_00
<b>LEP TO BE AMENDED</b>	Lismore LEP 2012
<b>ADDRESS</b>	123 Taylor Road, Chilcotts Grass
<b>DESCRIPTION</b>	Lot 2 DP 1185561
<b>RECEIVED</b>	25 April 2020
<b>FILE NO.</b>	IRF20/1863
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this

#### 1.1 Description of planning proposal

The planning proposal seeks to amend the Lismore Local Environmental Plan (LEP) 2012 to:

- change the zone of part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass from RU1 Primary Production to R1 General Residential;
- change the zone of part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass from RU1 Primary Production to E3 Environmental Management;
- change the minimum lot size from 10 hectares to 600m<sup>2</sup> for that part of the land proposed to be zoned R1 General Residential;
- change the minimum lot size from 10 hectares to 2 hectares for that part of the land proposed to be zoned E3 Environmental Management; and
- apply a maximum building height of 8.5m for that part of the land proposed to be zoned R1 General Residential and E3 Environmental Management.

## 1.2 Site description

The lot is 20.09 hectares in area and comprises a dwelling and ancillary infrastructure. The site is located approximately 7 kilometres from the Lismore CBD (Figures 1 and 2).

The planning proposal applies to 5.3 hectares of the lot. The western part along the riparian zone of Tucki Tucki Creek comprises areas of closed forest consisting primarily of Camphor Laurel with planted eucalyptus. The eastern section is predominately cleared native vegetation.

The balance of the lot will retain the current planning controls and the existing dwelling house and ancillary infrastructure. This portion of the lot was cleared of macadamias prior to 2015 and is used for grazing.

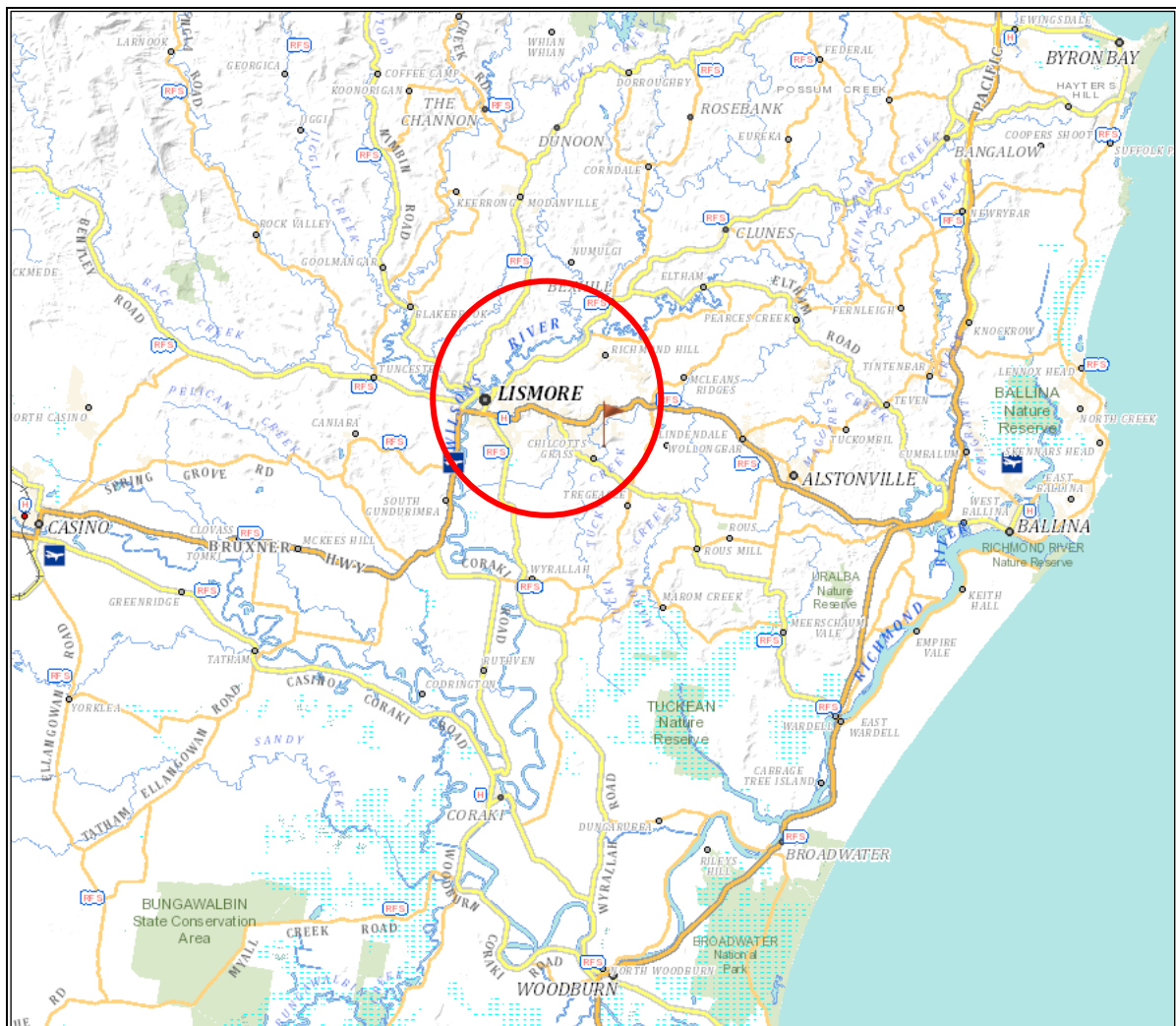


Figure 1: Locality Map (Source: Six Maps)

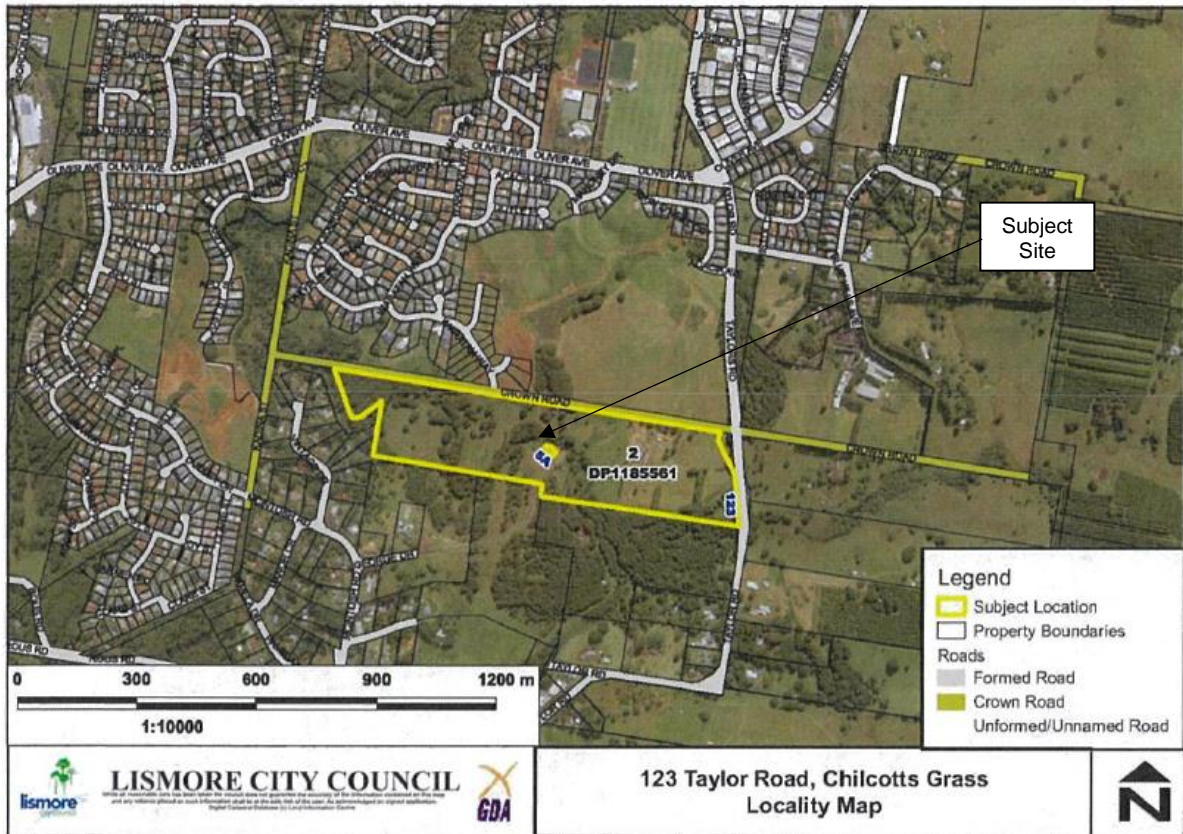


Figure 2: Site Map (Source: Planning Proposal)

### 1.3 Existing planning controls

Pursuant to the Lismore LEP 2012, the land is:

- zoned part R1 General Residential and part RU1 Primary Production (Figure 3);
- has a minimum lot size of 400m<sup>2</sup> on that part of the land zoned R1 plus 10 hectares and 40 hectares on that part of the land zoned RU1 (Figure 4);
- has a building height of 8.5m on that part of the land zoned R1 (Figure 5); and
- contains land that is to be acquired for public purposes (Figure 6).

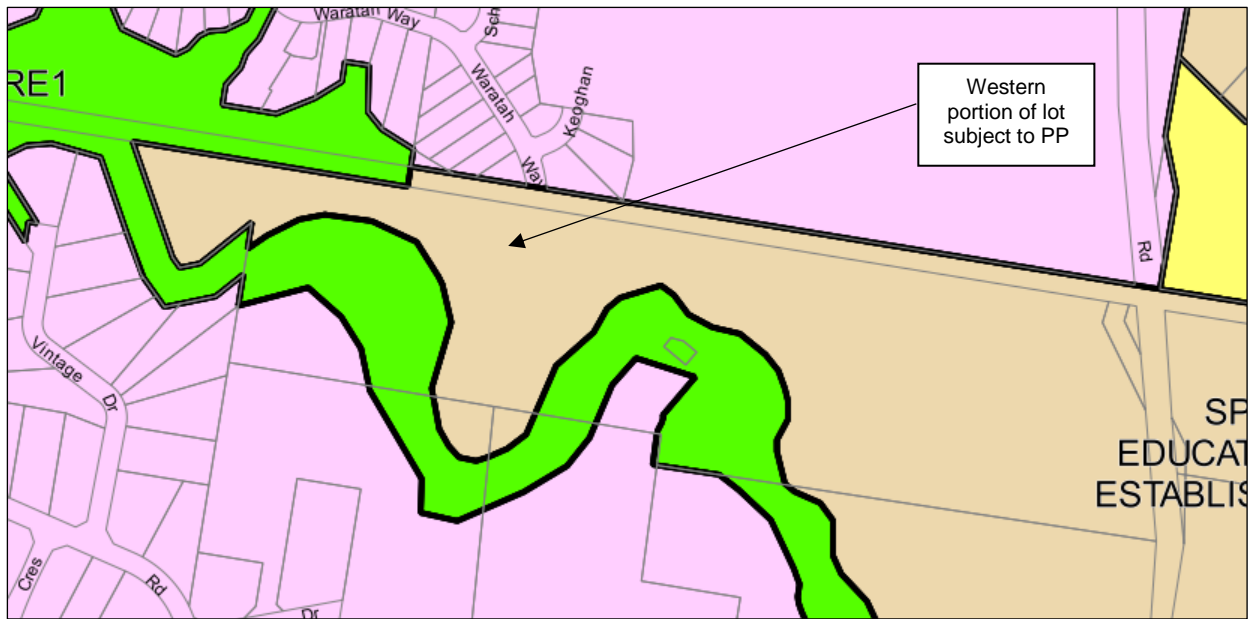


Figure 3: Extract of Land Zoning Map (Source: NSW Legislation website)

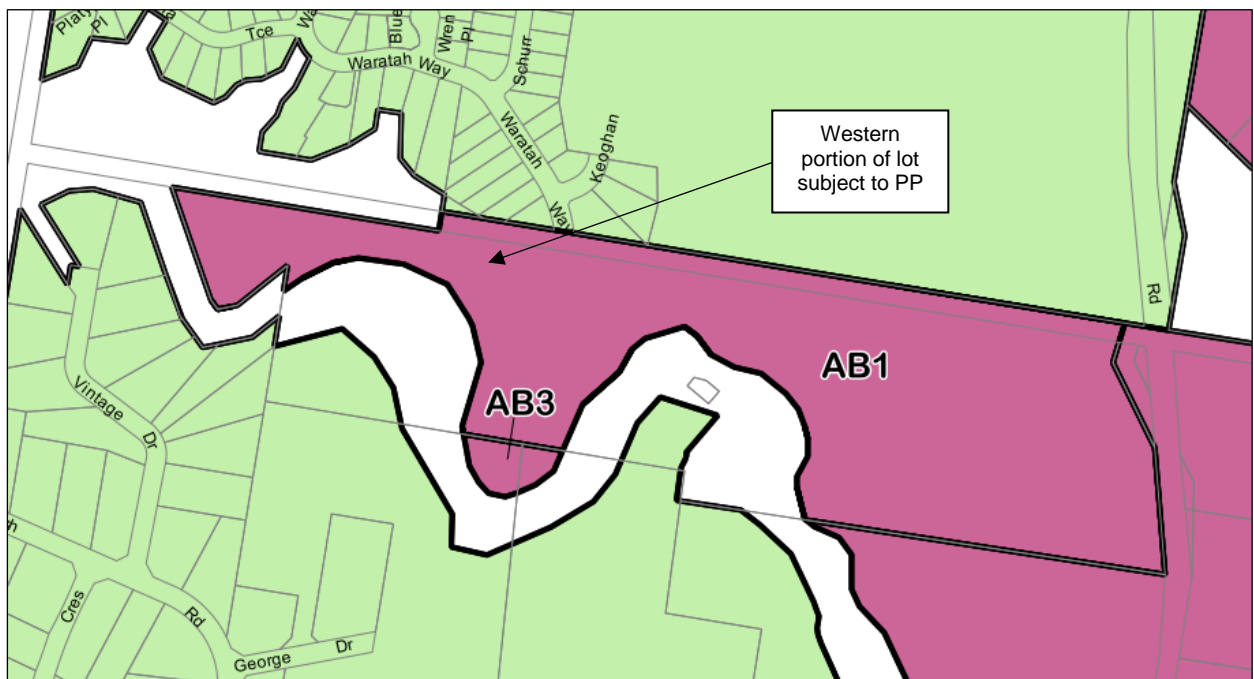


Figure 4: Extract of Lot Size Map (Source: NSW Legislation website)



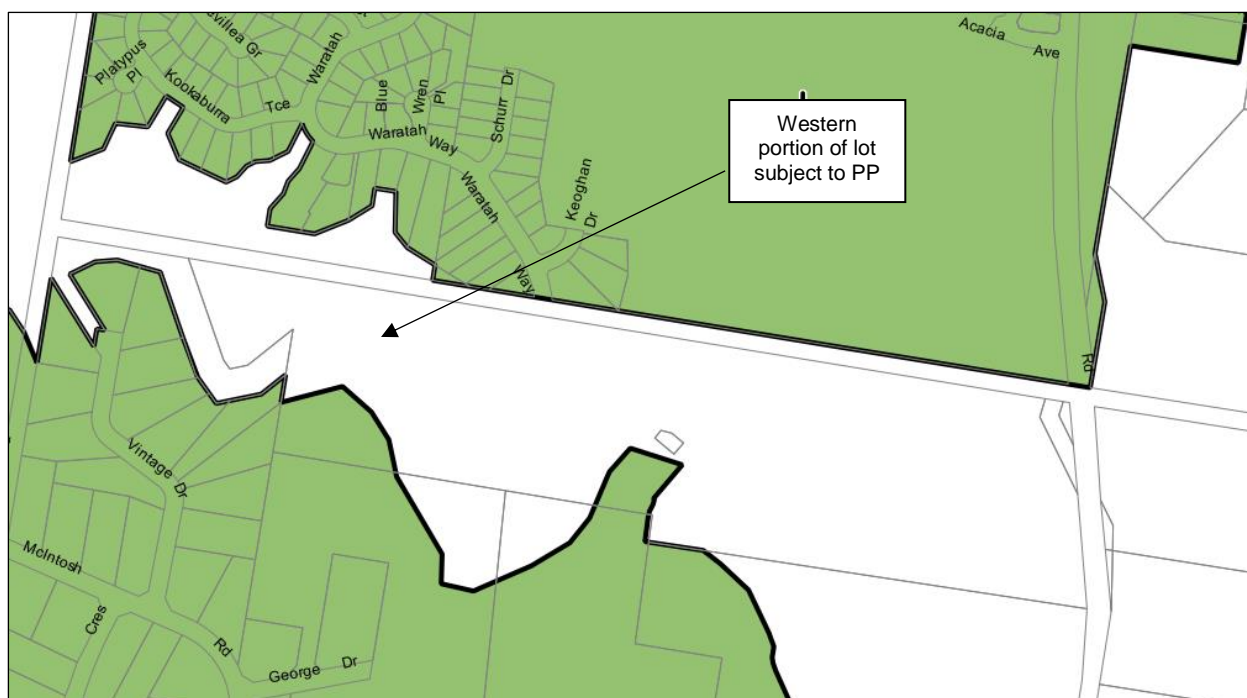


Figure 5: Extract of Height of Buildings Map (Source: NSW Legislation website)

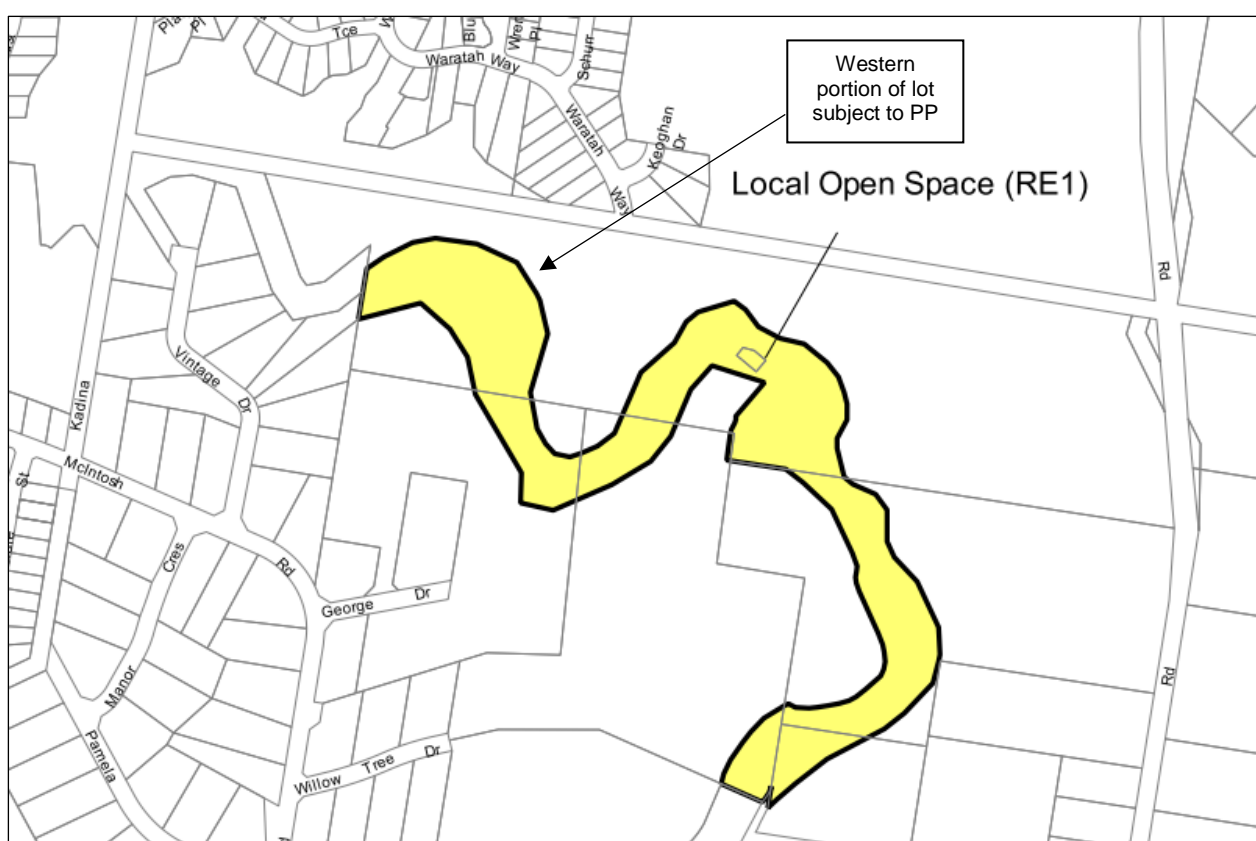


Figure 6: Extract of Land Acquisition Map (Source: NSW Legislation website)

#### **1.4 Surrounding area**

The surrounding land uses comprise existing residential development to the west and approved residential development to the north and the south. These areas are zoned R1 General Residential.

Tucki Tucki Creek traverses the lot and is a nature reserve that was gazetted as a fauna reserve in 1963 to protect habitat in the area. This land is zoned RE1 Public Recreation.

The land to the east is used for agricultural pursuits, primarily grazing. This land is zoned RU1 Primary Production.

#### **1.5 Summary of recommendation**

It is considered that the planning proposal has merit to proceed to Gateway for the following reasons:

- the planning proposal aligns with the Lismore Growth Management Strategy 2015-2035;
- the planning proposal is consistent with the North Coast Regional Plan 2036;
- the planning proposal responds to the objectives of the Imagine Lismore Community Strategic Plan 2017-2028; and
- the planning proposal will help facilitate the supply of urban land in an appropriate location to meet the region's projected housing needs.

It is recommended that the planning proposal be supported with conditions.

## **2. PROPOSAL**

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#### **2.1 Objectives or intended outcomes**

The objective of the planning proposal is to amend the Lismore LEP 2012 to enable part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to be developed for residential purposes and to protect the biodiversity values of the riparian environment adjoining Tucki Tucki Creek.

The objective and intended outcomes of the planning proposal are clearly stated and will be able to be interpreted by the community during the public consultation phase.

#### **2.2 Explanation of provisions**

The following amendments are proposed to the Lismore LEP 2012 to achieve the intended outcomes:

- amend the Land Zoning Map for part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to apply Zone R1 General Residential;
- amend the Land Zoning Map for part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to apply Zone E3 Environmental Management;
- amend the Minimum Lot Size Map for part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to apply 600m<sup>2</sup> to the area of land proposed to be zoned R1 General Residential;
- amend the Minimum Lot Size Map for part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to apply 2 hectares to the area of land proposed to be zoned E3 Environmental Management; and

- amend the Height of Buildings Map for part Lot 2 DP 1185561, 123 Taylor Road, Chilcotts Grass to apply an 8.5m maximum building height to the area of land proposed to be zoned R1 General Residential and E3 Environmental Management.

The proposed amendments are considered an acceptable means of achieving the intended outcomes.

## 2.3 Mapping

Council has nominated that amendments are required to the following maps:

- Land Zoning Map (Figure 7);
- Lot Size Map (Figure 8); and
- Height of Building Map (Figure 9).

The planning proposal includes maps that show the existing and proposed controls. The mapping is adequate for exhibition purposes but will need to be prepared to the Department's Standard Technical Requirements prior to the plan being finalised.

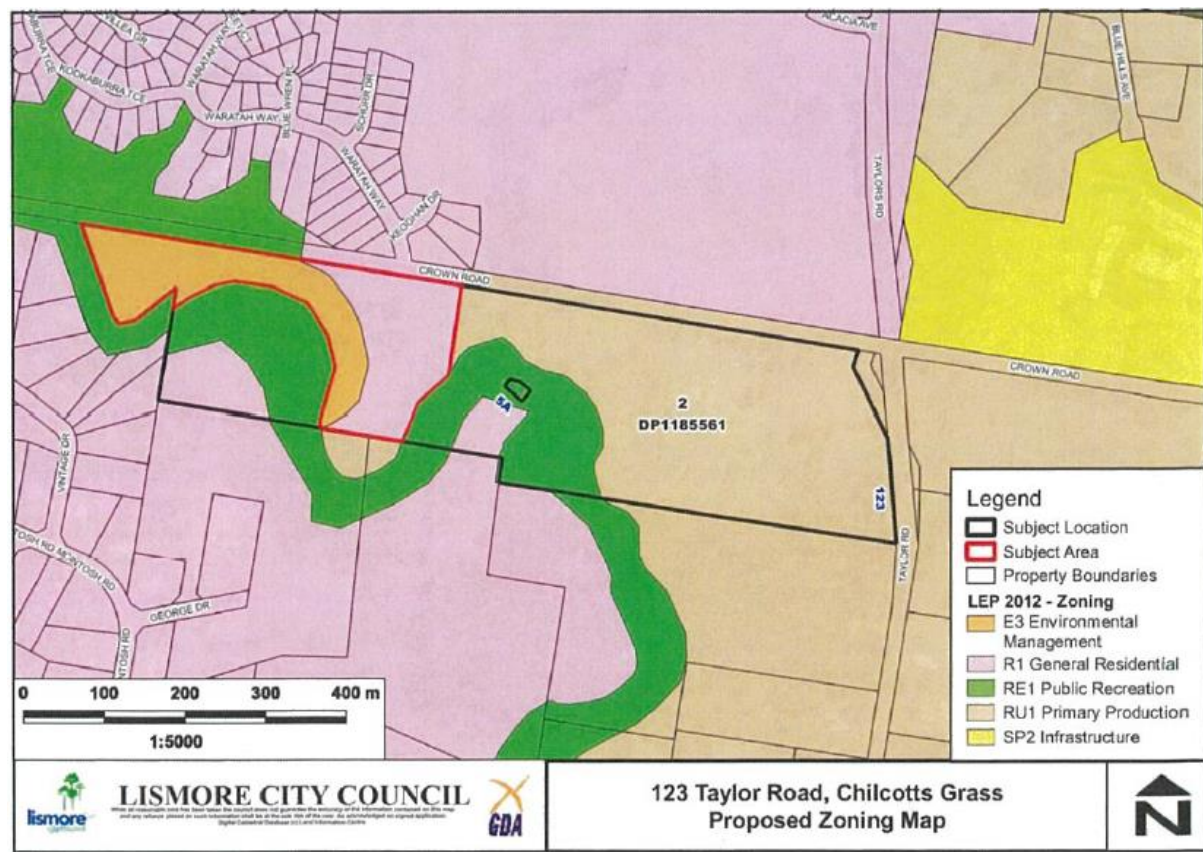


Figure 7: Proposed Land Zoning Map (Source: Planning Proposal)



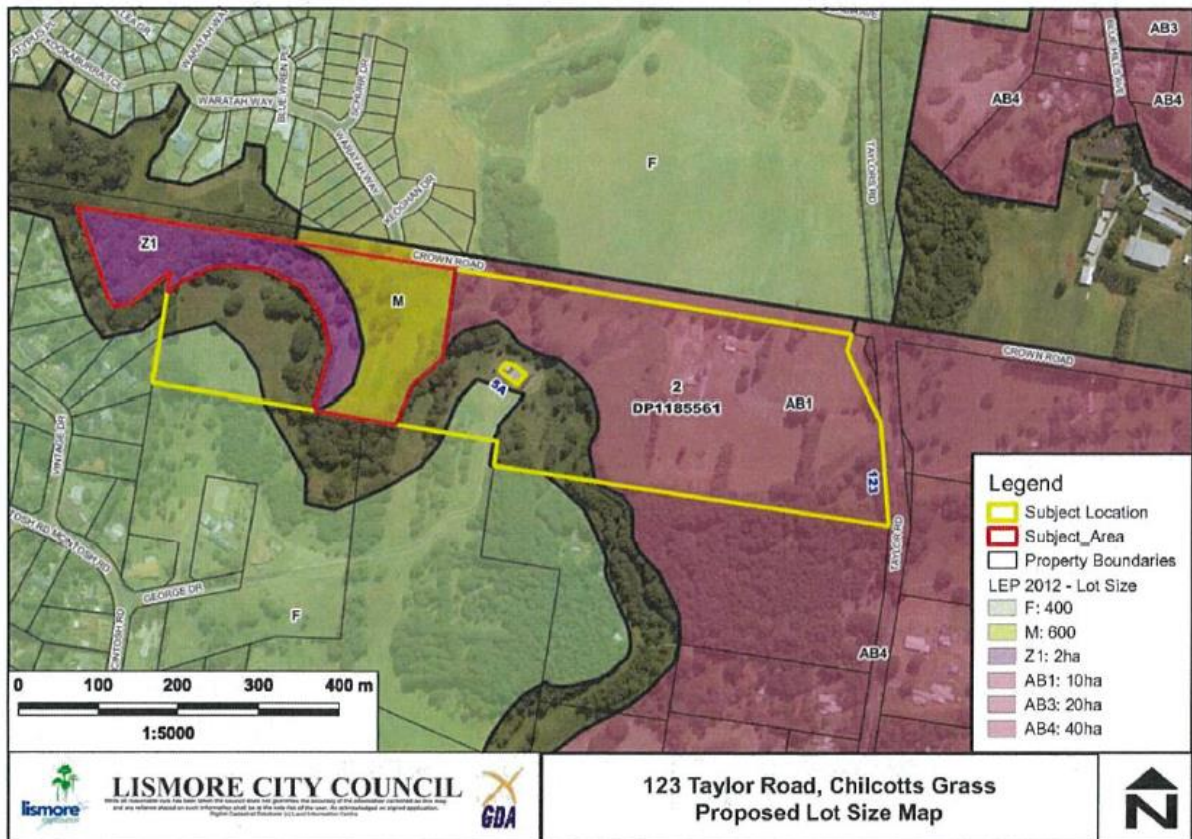


Figure 8: Proposed Lot Size Map (Source: Planning Proposal)

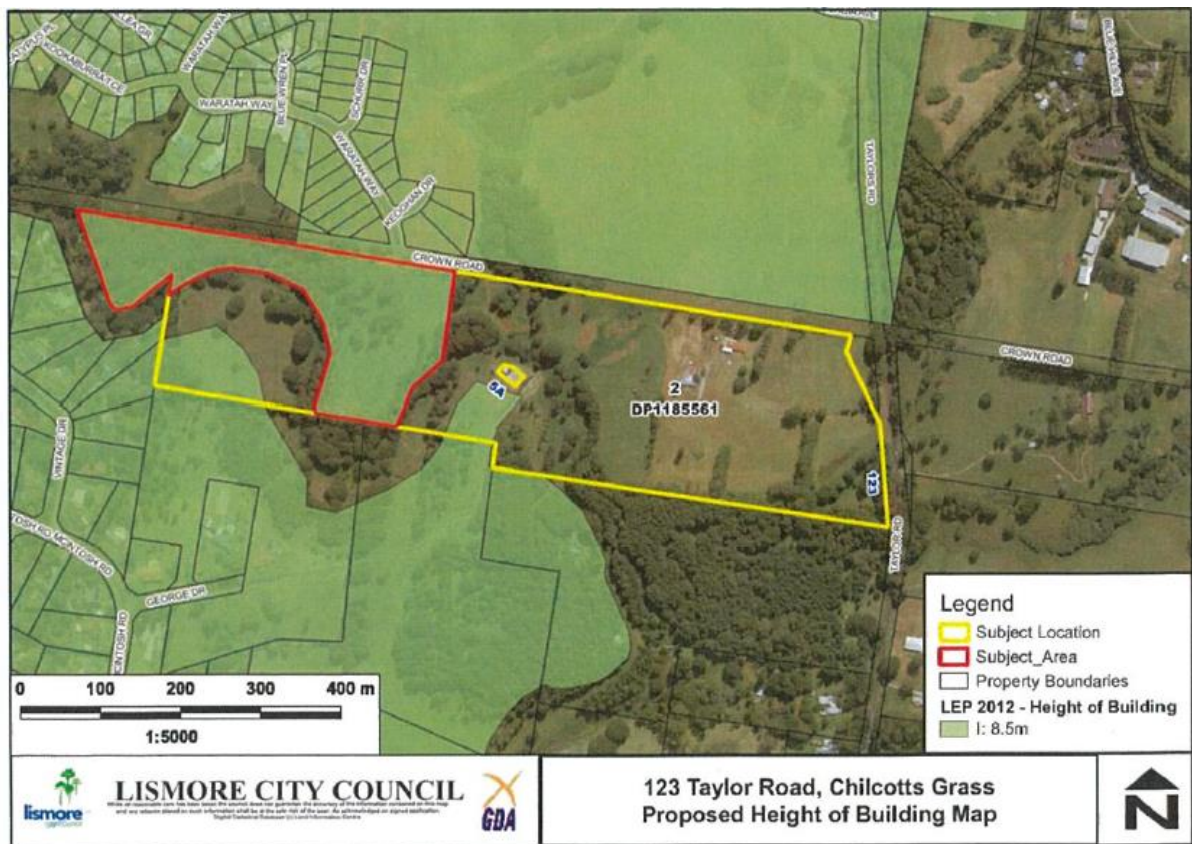


Figure 9: Proposed Height of Building Map (Source: Planning Proposal)



### 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is the result of a strategy, being the Lismore Growth Management Strategy 2015-2035 (GMS). The GMS was endorsed by the former Department of Planning and Environment on 11 August 2015.

The land is identified in the GMS as a potential urban site on Map 16 – Potential Residential Infill and Urban Fringe Sites (Figure 10). The GMS nominates the subdivision potential of the site may be limited by steep topography and bushfire prone vegetation. It also notes that while the land is mapped as being State Significant Farmland, there is little prospect of it being used for agriculture due to its proximity to existing and new housing.

Further, the North Coast Regional Plan 2036 identifies that Lismore LGA requires a minimum of 3350 new dwellings by 2036 to meet the anticipated population growth. The proposed rezoning will assist to meet the demand for new residential land.

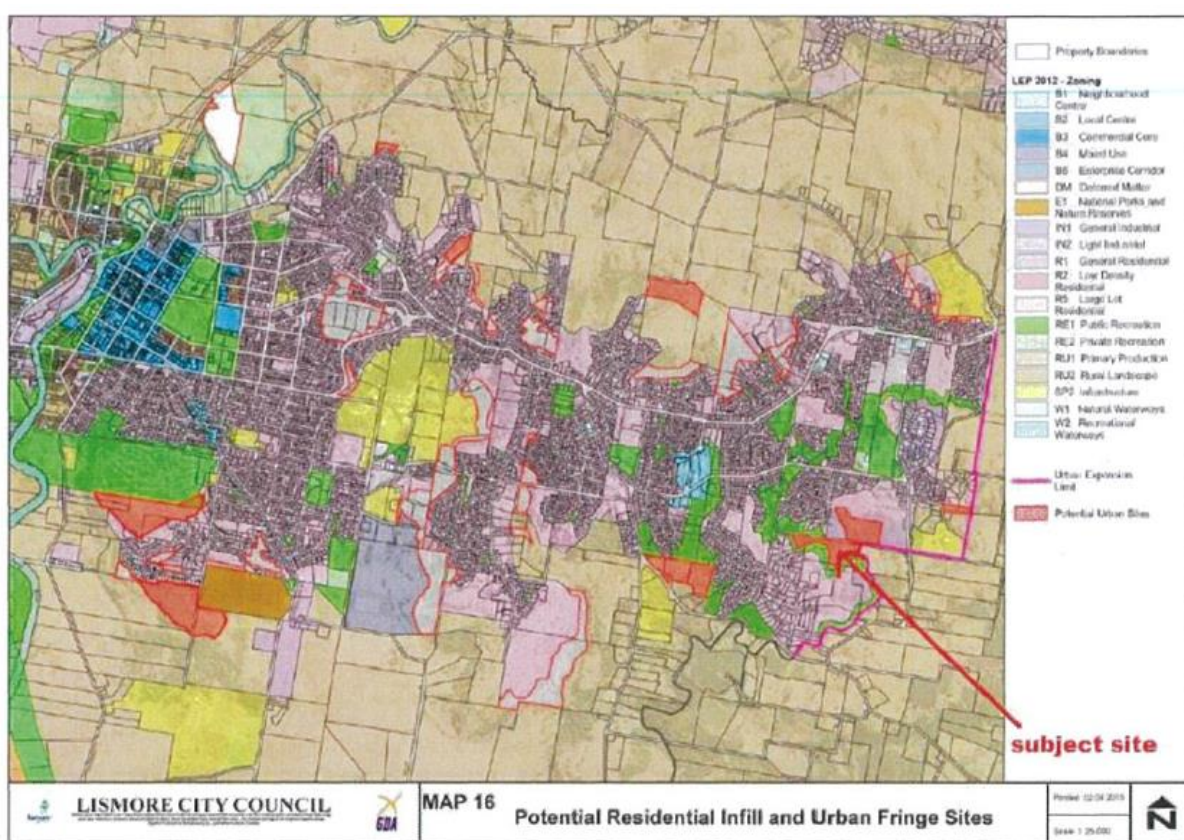


Figure 10: Map 16 of Lismore Growth Management Strategy (Source: Planning Proposal)

### 4. STRATEGIC ASSESSMENT

#### 4.1 State

##### *Northern Councils E Zone Review Final Recommendations Report*

The Northern Councils E Zone Review and Final Recommendations identifies clear criteria and methodologies for the application of the E zones by the Far North Coast councils, including that the application of E zones is not mandatory and only applies to land proposed for an E zone.

This is supported by a section 9.1 Direction requiring councils to be consistent with the adopted recommendations. Further, a directive from the Department's former

Secretary dated 1 March 2016, also provides guidance on how to apply the final recommendations.

The proposal is considered to be consistent with the final report criteria and methodology (Attachment D) as the affected land falls within the category of riparian and estuarine vegetation and wetlands. In this regard, Council proposes to apply an E zone to the land adjoining Tucki Tucki Creek which contains Lowland Subtropical Rainforest Threatened Ecological Community.

The landowner has given consent to the application of the E zone. As the landowner has provided their consent, the proposal is also considered to be consistent with section 9.1 Direction 2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs.

*Northern Rivers Farmland Protection Project - Final Recommendations*

Part of the land is mapped as State Significant Farmland (Figure 11). Section 4 of the Northern Rivers Farmland Protection Project - Final Recommendations, dated February 2005 nominates that State significant farmland cannot be considered for urban (including housing, retailing and other uses normally located within towns) or rural residential rezoning. The only exception is where the land is identified in a council settlement strategy which has been agreed to between December 1994 and December 2004 under clauses 20 or 38 of the North Coast Regional Environmental Plan (or placed on public exhibition by the end of 2004 and subsequently approved). Councils when preparing new settlement strategies cannot consider state significant farmland for inclusion.

It is noted that the land is identified in the GMS as a Potential Residential Infill and Urban Fringe Sites. The principals contained in the Northern Rivers Farmland Protection Project - Final Recommendations were applied when the site was included in the GMS. The GMS was endorsed by the Executive Director of the former Department of Planning and Environment on 11 August 2015.

Further, Direction 11 of the North Coast Regional Plan 2036 nominates that a review of the Northern Rivers Farmland Protection Project - Final Recommendations is required to establish consistent standards and application for important farmland across the North Coast. Pending completion of the existing farmland mapping projects, the interim important farmland criteria contained in Appendix B should be used to assess the suitability of land for non-agricultural land uses.

The proposal is considered to be consistent with the criteria contained in Appendix B which is addressed in section 4.2 of this report.

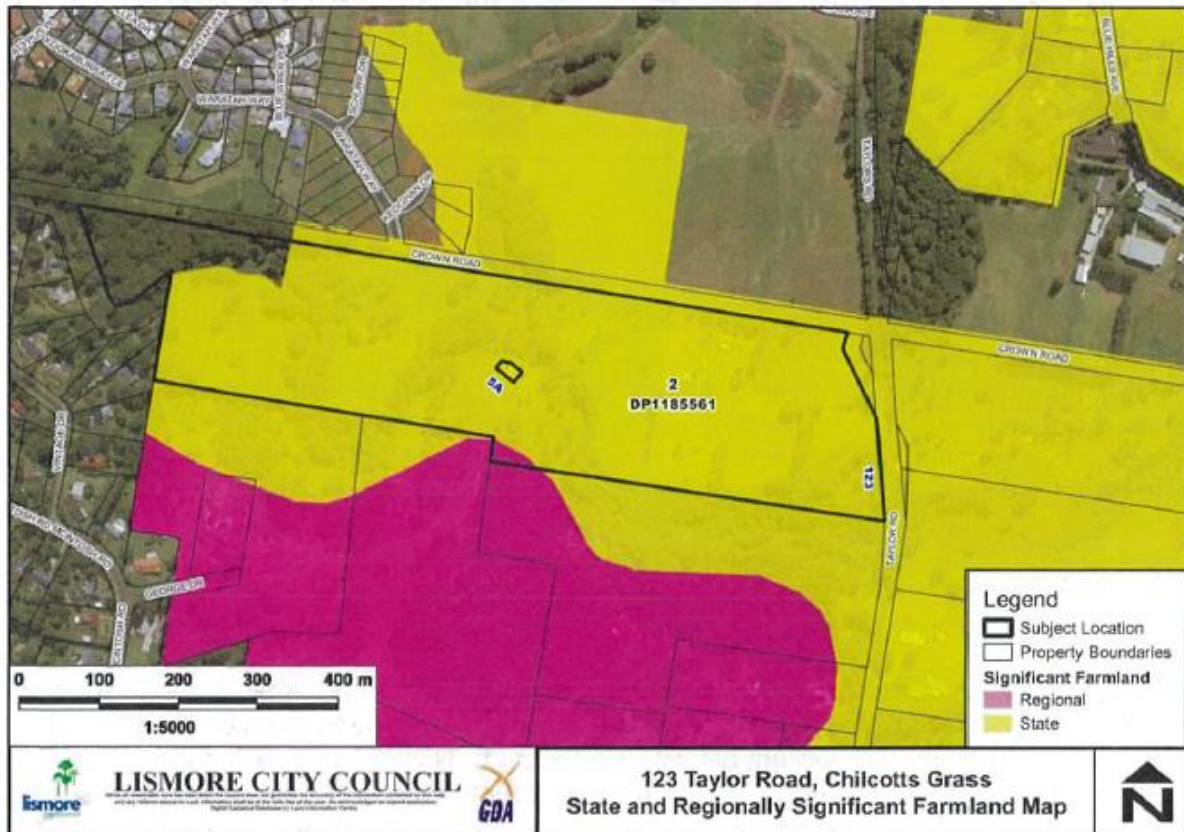


Figure 11: State Significant Farmland (Source: Planning Proposal)

## 4.2 Regional / District

The North Coast Regional Plan 2036 is relevant as follows:

### *Direction 1: Deliver environmentally sustainable growth*

This Direction aims to manage growth and protect the rural and coastal landscapes of the North Coast. The planning proposal is consistent with this Direction and aligns with Action 1.1 which seeks to focus urban development to urban growth areas. The part of the land to which the planning proposal relates is mapped within the Urban Growth Area boundary.

It is also consistent with Actions 1.3 and 1.4 which seeks to identify residential uses in urban growth areas by developing local growth management strategies endorsed by the Department of Planning and Environment and to prepare land release criteria to assess appropriate locations for future urban growth. This is achieved by the GMS.

### *Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments*

This Direction nominates that new development should be appropriately located to limit any adverse impacts on the region's biodiversity, coastal and aquatic habitats and water catchments. The planning proposal is consistent with Action 2.1 which aims to focus development to areas of least environmental sensitivity. The planning proposal identifies and recognises the sensitive ecosystems within the allotment and implements the 'avoid, minimise, offset' hierarchy to areas of high biodiversity and proposes to apply an E zone to areas of environmentally sensitive land within the lot.



*Direction 11: Protect and enhance productive agricultural lands*

This Direction recognises that agricultural production may not be suitable on some small pockets mapped as important farmland due to non-biophysical factors that make the land more suited to other uses. The planning proposal is consistent with the interim important farmland variation criteria contained in Appendix B which is to be used to assess the suitability of the land for non-agricultural land uses.

In accordance with Appendix B, the following are matters for consideration in the assessment as to whether important farmland may be suitable for other uses:

- *Agricultural Capability*

The land subject to the planning proposal is isolated from other important farmland, being fragmented from adjoining agricultural uses by Tucki Tucki Creek and existing residential development to the west and approved residential development to the north and the south. The land is also constrained by slope and its proximity to Tucki Tucki Creek which limits its suitability for horticulture. Therefore, it is considered that the affected portion of land is not capable of supporting sustainable agricultural production.

It is noted that the balance of the lot will continue to be utilised for extensive agriculture and comprises approximately 15 hectares of land that adjoins existing agricultural activities.

- *Land Use Conflict*

As previously identified, the land is isolated from other important farmland by urban development and Tucki Tucki Creek. Although the balance of the lot will continue to be used for agriculture, there are no intensive pursuits carried out within 150m of the planning proposal area, which is consistent with the requirements of the Lismore Development Control Plan (DCP) 2012.

Further, the existing vegetation located between the proposed R1 and existing RU1 land provides a natural buffer and separation between land uses. For these reasons, it is considered that the proposed land uses will not increase the likelihood of conflict and will not impact on current or future agricultural activities in the locality.

- *Infrastructure*

Council has indicated that infrastructure in the adjoining urban areas may be extended to service the proposed development. There would be no cost to Council, or the State Government associated with the extension of these services.

There is a Crown road located to the north of the site, which is not required for access the proposed development, but it is a consideration for public linkages and management of Tucki Tucki Creek. It is proposed by Council that consultation be carried out with Department of Planning, Industry and Environment - Crown Lands following the issue of a Gateway determination.

- *Environment and heritage*

The land subject to the planning proposal does not contain any items of heritage significance. This has been verified by a cultural heritage report which involved a survey and consultation with Aboriginal parties. It is noted that the survey identified one potential item for further investigation, but this item is located on the balance of the lot which does not form part of the planning proposal area. It is proposed by Council that consultation be carried

out with the Ngulingah Aboriginal Land Council following the issue of a Gateway determination.

The application of the proposed E3 zone also recognises and protects the threatened ecological community adjoining Tucki Tucki Creek. As such, it is considered that the proposed land uses will not have an adverse impact on areas of high environmental value, and Aboriginal or historic heritage significance.

- *Avoiding Risk*

The land is physically contained by bushfire and slope with a terrain of undulating to hilly (20-33%). These risks have been identified and avoided. Council has advised that a preliminary assessment of the bushfire hazard indicates that future development will be able to satisfy the requirements of Planning for Bushfire Protection 2006

*Direction 22: Deliver greater housing supply*

This Direction identifies that there should be a ready supply of well-located land for residential development to create a downward pressure on housing prices, maximise the use of existing infrastructure and ensure that environmentally sensitive areas are avoided. The planning proposal is consistent with Action 22.1 which aims to deliver an appropriate supply of residential land within the local growth management strategies and local plans to meet region's projected housing needs because the land is identified in the GMS for as a potential urban site.

*Direction 23: Increase housing diversity and choice*

This Direction identifies that providing housing diversity and choice will improve affordability, help meet the needs of an ageing population and support smaller households. The planning proposal is consistent with Action 23.1 as the part of the land is identified in Council's GMS as a potential urban site and the proposed controls will enable housing diversity.

*Local Government Narratives – Lismore*

The land is located within the mapped Urban Growth Area. The planning proposal is consistent with the housing narratives for Lismore, specifically that the proposed controls will not prevent housing diversity.

It is also consistent with the economy and employment narratives in that Lismore is not identified as an area where important farmland should be specifically protected to grow the agricultural sector.

#### **4.3 Local**

The Lismore Growth Management Strategy 2015-2035 (GMS) is an endorsed strategy that was approved by the former Department of Planning and Environment on 11 August 2015.

The planning proposal is consistent with the GMS which identifies the land as a potential urban site on Map 16 – Potential Residential Infill and Urban Fringe Sites (Figure 11).

The area of land identified by Map 16 is significantly larger than the area subject to the planning proposal because investigations concluded that only a portion of the land is suitable for residential development.

The planning proposal is also consistent with the relevant objectives of the Imagine Lismore Community Strategic Plan 2017-2027 as follows:

*Objective C4: Our diverse natural environment is protected and enhanced*

Strategy C4.1 seeks to protect and improve biodiversity on public and private land in Lismore's urban and rural landscapes. The planning proposal relates to land in an existing rural landscape and those areas within the allotment that contain biodiversity have been identified, avoided and managed through the application of an E zone.

*Objective D3: Our land use planning caters for all sectors of the community*

Strategy D3.1 seeks to ensure land is available and serviced to meet population growth in locations that are accessible, close to services and employment, and suitable for development. These are some of the reasons that the land was identified in the GMS as a potential urban site.

#### **4.4 Section 9.1 Ministerial Directions**

The planning proposal is consistent with the relevant Ministerial Directions, except for those discussed below.

##### *Direction 1.2 Rural Zones*

The planning proposal is inconsistent with this Direction because it is proposed to rezone land from a rural zone to a residential zone and contains provisions that will increase the permissible density of the land. The inconsistency is justified by the GMS which identifies the land as a potential urban site.

##### *Direction 1.3 Petroleum Production and Extractive Industries*

The planning proposal is inconsistent with this Direction as extractive industries will become prohibited on land currently zoned RU1 Primary Production when it is rezoned to R1 General Residential and E3 Environmental Management. The inconsistency is considered to be of minor significance as the land is highly unlikely to be suitable for extractive industries given it is located in close proximity to existing urban areas and Tucki Tucki Creek.

##### *Direction 1.5 Rural Lands*

The planning proposal is inconsistent with this Direction as it rezones rural land and changes the planning provisions that apply. The inconsistency is justified by the GMS which identifies the land to be a potential urban site on the basis that there is little prospect of the land being used for agriculture due to the proximity of existing and new housing.

##### *Direction 4.4 Planning for Bushfire Protection*

The planning proposal is potentially inconsistent with this Direction as it applies to land that is bushfire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Consultation with the RFS is required after a Gateway Determination is issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

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

The planning proposal is inconsistent with this Direction as the planning proposal rezones land that it identified as State Significant Farmland for urban purposes. The inconsistency is justified because it is considered to be consistent with the North Coast Regional Plan 2036.



#### **4.5 State environmental planning policies (SEPPs)**

The planning proposal is considered to be consistent with all relevant SEPPs.

However, it is noted that the planning proposal does not address State Environmental Planning Policy (Koala Habitat Protection) 2019 (Koala SEPP) which came into force on 1 March 2020. As such, it is recommended that as a condition of the Gateway determination that prior to exhibition and agency consultation, the document is updated to remove references to State Environmental Planning Policy No. 44- Koala Habitat Protection and replaced with an assessment of the Koala SEPP.

It is also recommended that the references to State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) are updated as the Minister for Planning and Public Spaces approved the removal clause 6 from SEPP 55 on 17 April 2020. The considerations for contamination have been transferred to a Ministerial direction (2.6) under section 9.1 of the Environmental Planning and Assessment Act 1979.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The land adjoins existing urban areas and is located in close proximity to existing shopping, community and health services. Further, the proposed planning controls will enable a diversity of housing options to meet the region's projected housing needs. For these reasons, it is considered that the planning proposal will have not have any negative social impacts.

#### **5.2 Environmental**

The key environmental issues for the planning proposal include:

##### *Contaminated Land*

A preliminary contaminated land assessment was prepared to accompany the planning proposal. The results of the soil sampling identified that contaminants were below the Health Investigation Levels for residential development. On the basis of the information contained in the report Council is satisfied that the site is suitable or can be made suitable for the proposed use, consistent with the requirements of the section 9.1 Direction 2.6 Remediation of Contaminated Land.

##### *Koalas*

The site is mapped as containing areas of primary koala habitat by Council's mapping (Figure 12). However, a large portion of the mapped primary koala habitat has since been cleared (Figure 13).

Koalas were observed on the site by an ecologist during survey work. The ecologist advised that the mapped areas do not support koala food trees and has identified established eucalypts further south along Tucki Tucki Creek that should be considered as preferred koala habitat (Figure 14).

The ecologist has confirmed that koalas utilise the site for breeding and foraging and that connectivity is required to support a viable koala population. In this case, the habitat on the site is important as it provides connectivity to the koala habitat in the broader landscape. There has been significant modification to koala habitat due to development in the surrounding areas.

Two trees are proposed to be removed to facilitate the extension of the proposed road, being a Guioa and a Sweet Pittosporum. Neither of these species are identified as koala food trees in the Koala SEPP. Further, the requirement of the Natural

Resource Access Regulator (NRAR) for a 40 metre buffer from Tucki Tucki Creek will ensure that no building works can be undertaken in close proximity to the areas that are identified as koala habitat.

Mitigation measures have also been proposed which could be included in any future development application, including a lot layout and road design that maintains habitat linkages for safe koala movement, bushfire asset protection zones that do not remove koala feed trees and the use of suitable designed boundary fences and safety provisions for swimming pools.

Finally, any future development application would be considered in accordance with Lismore City Council Comprehensive Koala Plan of Management (KPoM), which requires a koala habitat assessment report to be prepared to ensure appropriate controls and conditions are applied to the development. As such, it is considered that there will be no detrimental impacts to koalas as a consequence of the planning proposal.

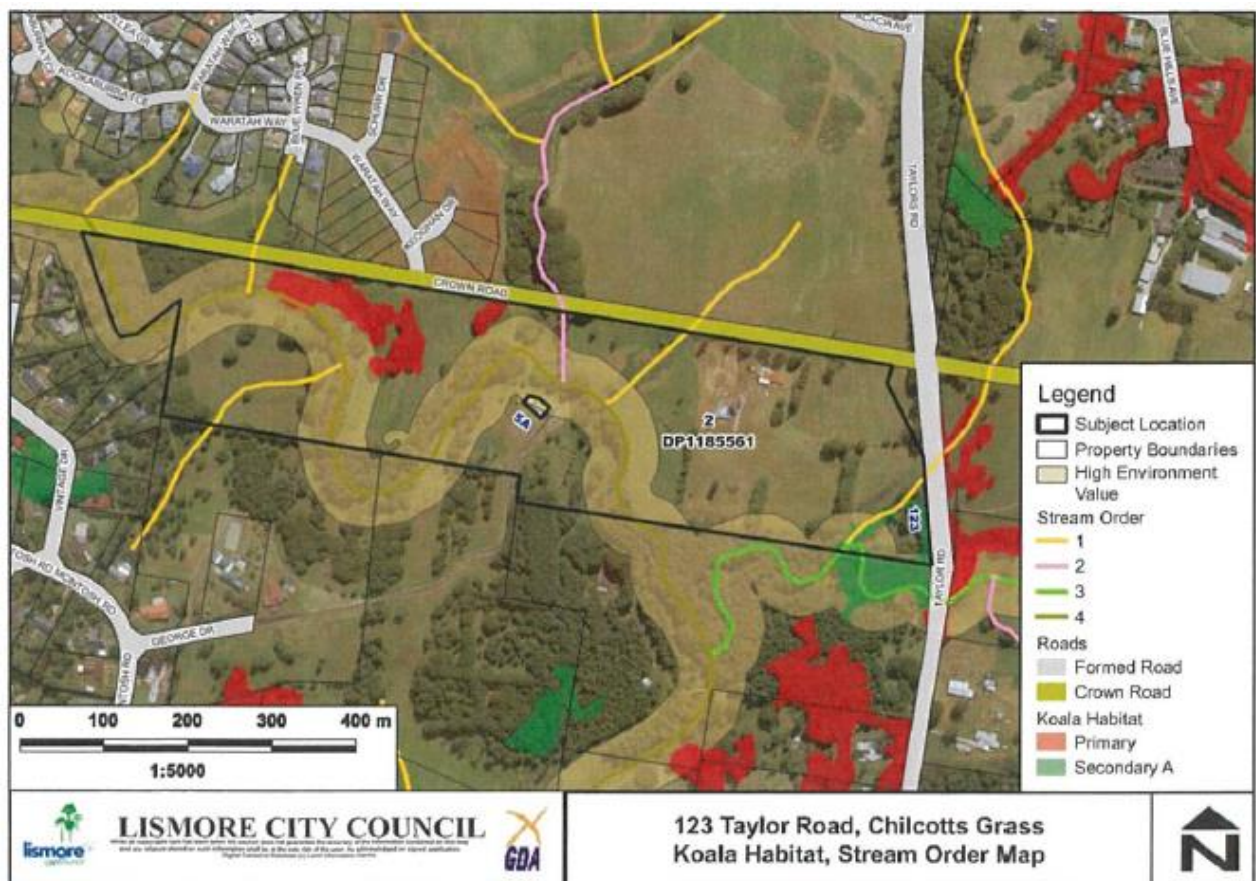


Figure 12: Koala Habitat (Source: Planning Proposal)





Figure 13: Vegetation Zones across the Site (Source: Planning Proposal)



Figure 14: Identified Koala Habitat and Koala Sightings (Source: Planning Proposal)



### *Threatened flora and other vegetation communities*

The site contains areas of Lowland Subtropical Rainforest Threatened Ecological Communities, with the largest patch located in the western part of the planning proposal area.

Council's ecologist has undertaken an assessment against the criteria for Zone E3 Environmental Zone in accordance with the Northern Councils E Zone Review and Final Recommendations and determined that the land meets the criteria for riparian and estuarine vegetation and wetlands. Application of an E3 zone to this land will ensure there are no detrimental impacts to the environment as a consequence of the planning proposal.

### *Bushfire*

The site is identified as bushfire prone (Figure 15). Council has advised that a preliminary assessment of the bushfire hazard indicates that future development will be able to satisfy the requirements of Planning for Bushfire Protection 2006. In accordance with the section 9.1 Direction 4.4 Planning for Bushfire Protection, the planning proposal will need to be referred to the Rural Fire Service.

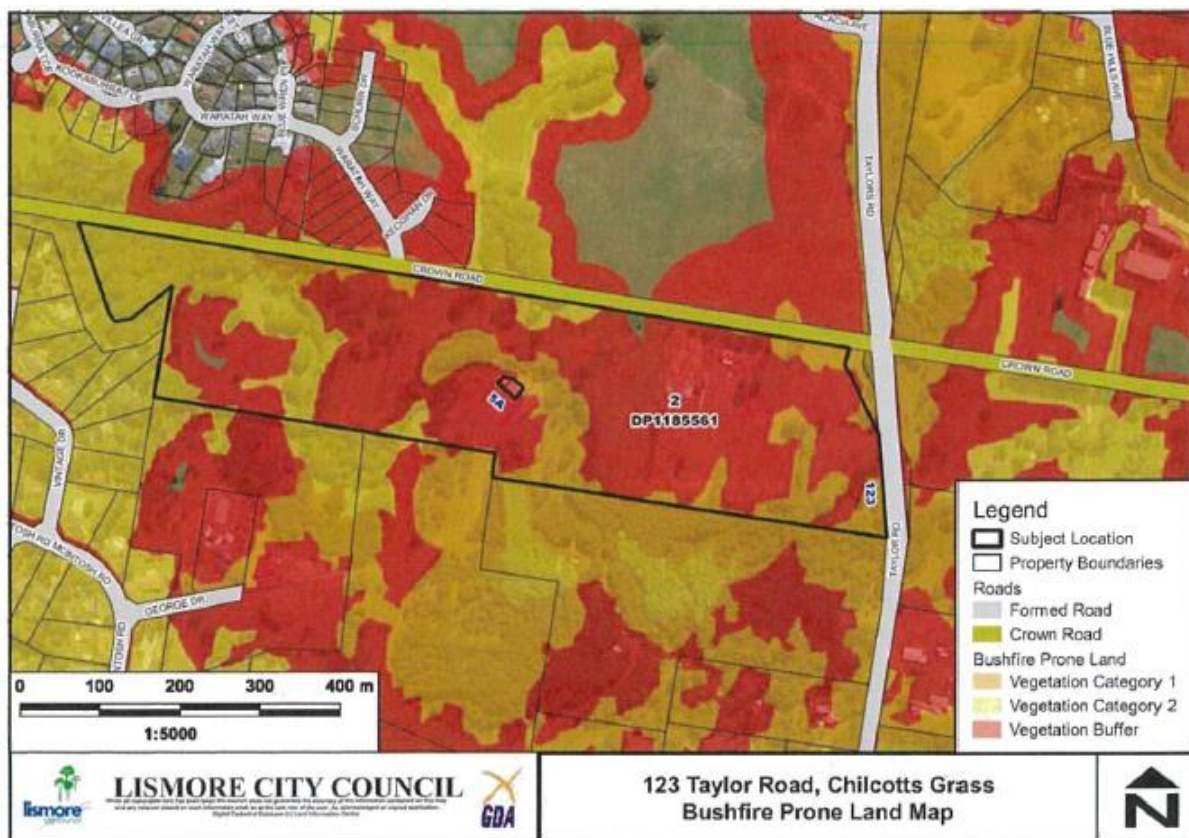


Figure 15: Bushfire Prone Land Map (Source: Planning Proposal)

### *Buffers to Watercourse*

Tucki Tucki Creek is a fourth order stream. Following enquires with the NRAR the planning proposal was amended to include an E3 zone that provides for a 40 metre riparian buffer along the western part of the planning proposal area and to remove direct access from future lots to Tucki Creek. The outcome ensures that there is no opportunity for encroachment into the core riparian area by future residents and potential impact to the environment. It is noted that new sewer infrastructure required to service a subdivision will be constructed within the core riparian area, which is permitted by the NRAR.

### **5.3 Economic**

The proposal will enable the expansion of an existing urban area which will create jobs during the subdivision construction and building work phases. It also has the potential to attract a small additional population to Lismore which will have positive ongoing economic benefits for the community. As such, the proposal is not expected to have any adverse economic impacts.

### **5.4 Infrastructure**

There will be no impact on State or regional infrastructure or the requirement for additional funding. With respect to local infrastructure, sufficient investigation has been undertaken to satisfy Council that future residential lots can be serviced. Specific servicing requirements for the subdivision will be addressed at the development application stage

## **6. CONSULTATION**

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### **6.1 Community**

Council have nominated a 28-day public exhibition period for the planning proposal in accordance with LEPs, A guide to preparing local environmental plans (Department of Planning and Environment, 2018). This is considered an appropriate timeframe.

Notification of the exhibited planning proposal will include a notice in Council's Local Matters newsletter that circulates in the area affected by the planning proposal, on the websites of Lismore City Council and the Department of Planning, Industry and Environment and a letter to adjoining landholders.

### **6.2 Agencies**

Council has nominated that consultation will be undertaken with the NSW Rural Fire Service in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection.

Consultation is also to be undertaken with the Department of Regional NSW (Department of Primary Industries – Agriculture) and the Department of Planning Industry and Environment (Crown Lands, Division of Biodiversity and Conservation and the Natural Resource Access Regulator) and. It is considered that the agencies nominated are appropriate and it is recommended that a condition be imposed on the Gateway determination.

Council has also indicated that during exhibition the planning proposal will be referred to the Ngulingah Aboriginal Land Council and Friends of the Koala. It is not considered necessary that a condition be imposed to require that consultation is undertaken with these organisations.

## **7. TIME FRAME**

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The planning proposal includes a project timeline which estimates completion by October 2020.

To ensure there is adequate time to complete the necessary exhibition, reporting, map changes and legal drafting it is recommended that a timeframe of 9 months be provided.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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Consistent with the Secretary's directive of 1 March 2016, an authorisation to act as the local plan-making authority is not to be issued to Northern councils where a planning proposal seeks to apply an E zone to land. This is to ensure a consistent approach to the finalisation of zoning decisions consistent with the E zone Review Final Recommendations Report. As the proposal includes the rezoning of part of the lot to an E zone, Council cannot be authorised to act as the local plan-making authority.

## **9. CONCLUSION**

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It is considered that the planning proposal has merit to proceed to Gateway for the following reasons:

- the planning proposal aligns with the Lismore Growth Management Strategy 2015-2035;
- the planning proposal is consistent with the North Coast Regional Plan 2036;
- the planning proposal responds to the objectives of the Imagine Lismore Community Strategic Plan 2017-2028; and
- the planning proposal help facilitate the supply of urban land in an appropriate location to meet the region's projected housing needs.

It is recommended that this planning proposal be supported with conditions.

## **10. RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions Direction 1.2 Rural Zones, 1.3 Petroleum Production and Extractive Industries, Direction 1.5 Rural Lands and Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
  - Department of Planning, Industry and Environment (Crown Lands)
  - Department of Planning, Industry and Environment (Division of Biodiversity and Conservation)
  - Department of Planning, Industry and Environment (Natural Resource Access Regulator)
  - Department of Regional NSW (Department of Primary Industries – Agriculture)
  - NSW Rural Fire Service.



3. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be the local plan-making authority.
5. Prior to agency and community consultation, Council is to alter the planning proposal as follows:
  - (a) amend the cover page to refer to part 123 Taylor Road, Chilcotts Grass;
  - (b) amend Appendix 1 to remove reference to State Environmental Planning Policy No. 44 – Koala Habitat and include discussion on State Environmental Planning Policy (Koala Habitat Protection) 2019;
  - (c) amend Appendix 1 to remove reference to State Environmental Planning Policy No. 55 – Remediation of Land and amend Appendix 2 to include a discussion on section 9.1 Ministerial Direction 2.6 Remediation of Land; and
  - (d) amend Appendix 2 to include a discussion of section 9.1 Ministerial Direction 3.7 Reduction in non-hosted short term rental accommodation period.



**Renee Trezise**  
Team Leader, Northern Region



18-5-2020

**Jeremy Gray**  
Director, Northern Region  
Local and Regional Planning

Assessment officer: Lucy Walker  
Planning Officer, Northern Region  
Phone: 5778 1402

## Attachments

Attachment	Title
Report	Gateway determination report
A	Planning proposal
B	Gateway determination
C	Letter to Council
D	Checklist for consistency with Northern Councils E Zone Review Final Recommendations

## Departmental approval and contact

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Approver	Position	Date approved
Renee Trezise	Team Leader, Northern Region	15/05/2020
Jeremy Gray	Director, Northern Region	18-5-2020
Contact name	Position	Phone number
Lucy Walker	Planning Officer	5778 1402