

Lismore LEP 2012 - 354 Broadwater Road, Dungarubba - Schedule 1 Additional Permitted Uses

Proposal Title : **Lismore LEP 2012 - 354 Broadwater Road, Dungarubba - Schedule 1 Additional Permitted Uses**

Proposal Summary : **The Planning Proposal aims to amend Schedule 1 of the Lismore Local Environmental Plan 2012 to permit an industrial land use within the south eastern corner of 354 Broadwater Road, Dungarubba (Lot 2 DP 8877) to enable the manufacturing of concrete fence posts. It is proposed to limit this development by permitting operation for a 5 year period.**

PP Number : **PP_2016_LISMO_005_00** Dop File No : **16/06495**

Proposal Details

Date Planning Proposal Received :	04-May-2016	LGA covered :	Lismore
Region :	Northern	RPA :	Lismore City Council
State Electorate :	LISMORE	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :	354 Broadwater Road,		
Suburb :	Dungarubba	City :	Postcode : 2480
Land Parcel :	Lot 2, DP 8877		

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**
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RPA Contact Details

Contact Name : **Rod Mallam**
 Contact Number : **1300878387**
 Contact Email : **rod.mallam@lismore.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Far North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots : 0	No. of Dwellings (where relevant) :	0
Gross Floor Area : 0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes		
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.	
Have there been meetings or communications with registered lobbyists? :	No	
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.	

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Australian Concrete Posts Pty Ltd is currently operating from the subject site for the purpose of manufacturing concrete fence posts for rural clients and for the upgrade of the Pacific Highway. The property has development approval to operate a 'rural industry' but this land use is classified as an industrial use which is currently prohibited on the site by virtue of the RU1 Primary Production Zone. This Planning Proposal aims to amend the Lismore LEP 2012 by adding this site to Schedule 1 Additional Permitted Uses and allowing the industry to operate on the site for a period of 5 years.**

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal, which is to amend Schedule 1 of the Lismore Local Environmental Plan 2012 to permit an industrial land use within the south eastern corner of 354 Broadwater Road, Dungarubba (Lot 2 DP 8877) to enable the manufacturing of concrete fence posts. It is proposed to limit this development by permitting operation for a 5 year period.**

However, it is recommended that this be updated to clearly state that only part of Lot 2 DP 8877 is proposed to be included in Schedule 1 of the Lismore LEP 2012.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal provides an explanation of the intended provisions to achieve the objectives and intended outcomes. However, as above, it is recommended that this be updated to clearly state that only part of Lot 2 DP 8877 is proposed to be included in Schedule 1 of the Lismore LEP 2012.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.5 Rural Lands

4.1 Acid Sulfate Soils

* May need the Director General's agreement

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

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

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 :

See the assessment section of his report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Maps have been provided with this Planning Proposal. They show the subject land and the extent of the site that is proposed to be added to Schedule 1.

It is considered that the maps will be adequate for community consultation.

Maps prepared in accordance with the Department's technical mapping standards will need to be created before a Parliamentary Counsel's opinion can be sought.

Community consultation - s55(2)(e)

Has community consultation been proposed?

Comment :

The Planning Proposal recommends a 28 day consultation period.

It is considered that this Planning Proposal is a minor amendment to the Lismore LEP and a 14 day exhibition period would be satisfactory.

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;

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3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council has not specifically sought an authorisation to exercise its plan making delegations. However, in discussions with Council Staff they indicated that it was their desire to use the plan making delegations. As the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council if the Planning Proposal is supported.

Council has provided a project time line which estimates that the LEP will be ready for notification in September 2016. To ensure an adequate period to complete the Planning Proposal a 6 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

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

Assessment Criteria

Need for planning proposal :

Australian Concrete Posts Pty Ltd is currently operating from the subject site for the purpose of manufacturing concrete fence posts. The existing approval for a rural industry on the property does not cover this land use activity.

The Lismore LEP 2012 RU1 – Primary Production zone prohibits industrial land uses. To formalise the current operation and to permit the change of use on the property from a rural industry to an industry, this Planning Proposal is required.

Options to allow the manufacture of concrete fence posts to continue on the site include adding the land to Schedule 1 - Additional permitted uses of the LEP, amending the land use table for the RU1 Primary Production zone to permit 'industry' or rezoning the land. Council has considered these options and has supported the use of Schedule 1. This is due to the desire not to potentially cause significant impacts on primary production by permitting other industrial land uses in the zone. Similarly it is not appropriate to create an industrial zoned parcel of land in a rural setting isolated from other similarly zoned land.

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Consistency with strategic planning framework :

This Planning Proposal is not the result of a strategic study or report.

Far North Coast Regional Strategy (FNCRS).

This site is not specifically addressed in the FNCRS. It is considered that it is not inconsistent with the actions listed in the Strategy. This amendment to the LEP will facilitate local jobs while not creating adverse conditions for the continued operation of adjoining agricultural lands.

Draft North Coast Regional Plan

This site is not specifically addressed in the Draft North Coast Regional Plan. It is considered that it is not inconsistent with the directions or actions of the Plan as it provides investment in local industry and local jobs and is unlikely to have an impact upon the viability of neighbouring primary production.

Consistency with Council's Local Strategies.

This site is not specifically addressed in the Lismore Growth Management Strategy. The proposal is not inconsistent with the recommendations of this Strategy as it will not create adverse impacts on adjoining primary production land or any potential residential land release.

The Planning Proposal is considered to be consistent with all the relevant State Environmental Planning Policies including SEPP 44 Koala Habitat Protection, SEPP 55 Remediation of Land and SEPP Rural Lands.

SEPP 44 Koala Habitat Protection

The proposed use of the land will not impact upon any Koala Habitat.

SEPP 55 Remediation of Land

Previous investigations into contamination on the subject land have not identified any contamination of the site that would prevent the use of the site for the continued manufacture of concrete posts.

SEPP Rural Lands

SEPP Rural Lands contains Rural Planning Principles to guide development on rural land. It is considered the proposal is consistent with the Rural Planning Principles. The land is identified as regionally significant farmland. The use of the site for an industrial purpose is not considered to have the potential to significantly increase land use conflict with nearby agricultural land uses due to the nature of the operation, the proposed 5 year project timeline and the current use of the land.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.5 Rural Lands, 2.2 Coastal Protection, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies, 5.3 Farmland of State and Regional Significance on the NSW Far North Coast and 6.3 Site Specific Provisions.

Of these directions the proposal is considered to be inconsistent with the following.

4.1 Acid Sulfate Soils

This direction applies as the site is located on land mapped as having acid sulfate soils (class 3). It is considered that any inconsistency with this direction is justified as being of minor significance as the proposed inclusion of the land in Schedule 1 of the LEP does not constitute a significant intensification of the land use. The existence of the buildings and the filled building pad means the use of this infrastructure for the production of concrete fence posts will not impact upon acid sulfate soils.

4.3 Flood Prone Land

This Direction is relevant as the Planning Proposal will affect land that is flood prone. Council has indicated that the flood level for the subject land is RL4.5 AHD. A survey of the land shows the majority of the proposed 2ha area is built on a pad. Council staff have

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advised that it is unknown if the pad is flood free but they understand that there would be minimal impact from floodwaters on the building. Detailed surveys included in the Planning Proposal do not relate their measurements back to the Australian Height Datum which prevents a clear determination that there are areas of flood free land on the site. It is considered that this Planning Proposal would not permit development that will result in significant flood impacts to other properties nor constitute a significant increase in the development of that land, or a net increase in demand for services in times of flood, or spending on mitigation measures. Council's LEP has controls relating to flood prone land. It is considered that the inconsistency with this direction is of minor significance.

6.3 Site Specific Provisions

This direction is relevant to the proposal. The direction provides that a planning proposal may allow a particular development to be carried out by allowing that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the LEP. The proposal seeks to apply a five year time limit for the operation of the proposal. This time limit is a matter agreed to by Council and the proponent and therefore the inconsistency of the proposal with the direction is considered to be of minor significance.

Environmental social
economic impacts :

The subject land is unlikely to contain any critical habitat or threatened species due to the level of development on the site currently. It is considered that this development will have a negligible impact on biodiversity in the area.

The land is not bushfire prone and it is unlikely that flood waters will have a significant impact upon the building or associated infrastructure as they are constructed on an elevated pad.

The inclusion of this land in Schedule 1 of the LEP will support a local industry that provides employment and contributes to the economic development of the local area.

It is considered that this development will have positive social and economic impacts and negligible environmental impacts.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)

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. :

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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
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Planning Team Recommendation

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

S.117 directions: **1.5 Rural Lands**
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 5.1 Implementation of Regional Strategies
 5.3 Farmland of State and Regional Significance on the NSW Far North Coast
 6.3 Site Specific Provisions

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 6 months;**
- 4. That an authorisation to exercise delegation be issued to Council;**
- 5. That the Secretary's delegate determine that the inconsistencies with s117 Directions 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions are justified as the matters are of minor significance;**
- 6. That prior to public exhibition the Planning Proposal and draft Additional Permitted Uses Map be amended to reflect that the 2ha south eastern corner of Lot 2, DP 8877 is the only land being added to Schedule 1.**

Supporting Reasons : **It is recommended that the Planning Proposal is supported as it will permit the continued use of the site for the production of concrete fence posts to cater for the needs of local agricultural enterprises and the upgrade of the Pacific Highway.**

Signature: _____

Printed Name: _____

Date: _____

*Acting Team Leader
Local Planning
Northern Region*

