

Report

Subject	Planning Proposal - 1443 Bangalow Road, Clunes
TRIM Record No	BP22/351:EF21/38
Prepared by	Strategic Planner
Reason	To amend the Minimum Lot Size for 1443 Bangalow Road, Clunes (Lot 1 DP 832781) in order to enable a dwelling entitlement.
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Ensure a diverse range of land use and development opportunities are available.

Executive Summary

Council has received a Planning Proposal to amend the Minimum Lot Size of 1443 Bangalow Road, Clunes with the intention of enabling a dwelling entitlement.

1443 Bangalow Road is a 1.8-hectare lot in the rural RU1 zone approximately 2km southwest of Clunes. The site has historically been used as a vehicle body repair shop and continues to have 'existing use rights' under a historic consent. Another previous consent for this site (DA92/1) to create a 'special purpose lot' came with a condition that the land "only be used for the purpose of a panel beating and spray-painting workshop". This use is no longer considered appropriate, and this is the primary reason a Planning Proposal is now needed.

The residential use of this site will be subject to a future development application and will be dependent on the vehicle body repair shop consent being surrendered and the sheds removed to create a vegetated buffer. The attached Planning Proposal has considered the environmental, social and heritage related impacts of a change of use and concludes that a residential use can be satisfactorily achieved. It is the view of Council staff that a residential use for this site would provide a land-use more in line with the character of the surrounding area and recommends that the Planning Proposal be supported.

Recommendation

That:

1. Council supports the Planning Proposal to change the Minimum Lot Size for 1443 Bangalow Road, Clunes.
2. the Planning Proposal be submitted to the Department of Planning and Environment with a request for Gateway determination.
3. Council confirm staff are to proceed to public exhibition of the Planning Proposal, in accordance with the Gateway determination.
4. Council confirms that should no objections be made during the public exhibition stage, that the Planning Proposal be submitted to the Department of Planning and Environment for making of the LEP; or, that should any objections be raised at the public exhibition stage, staff report back to Council for further consideration.

Background

Council received a Planning Proposal seeking to amend the minimum lot size of 1443 Bangalow Road, Clunes from 40ha to 1.5ha. Currently, due to the history of the site and the existing DA conditions, the site has no dwelling entitlement. This change in lot size would allow Council to assess and determine a development application for a dwelling or dual occupancy, provided that the landowner surrenders the development consent for the existing use rights ('vehicle body repair shop').

The Planning Proposal was subject to a Councillor briefing in March 2021.

The subject site

Lot 1 DP 832781 (1443 Bangalow Road, Clunes) is located in a rural area (Zone RU1) on a classified road. It is approximately 2km south-west of the village of Clunes and 14km north-east of the Lismore CBD, as shown in figure 1, the zoning of the site and the surrounding area is shown in figure 2.

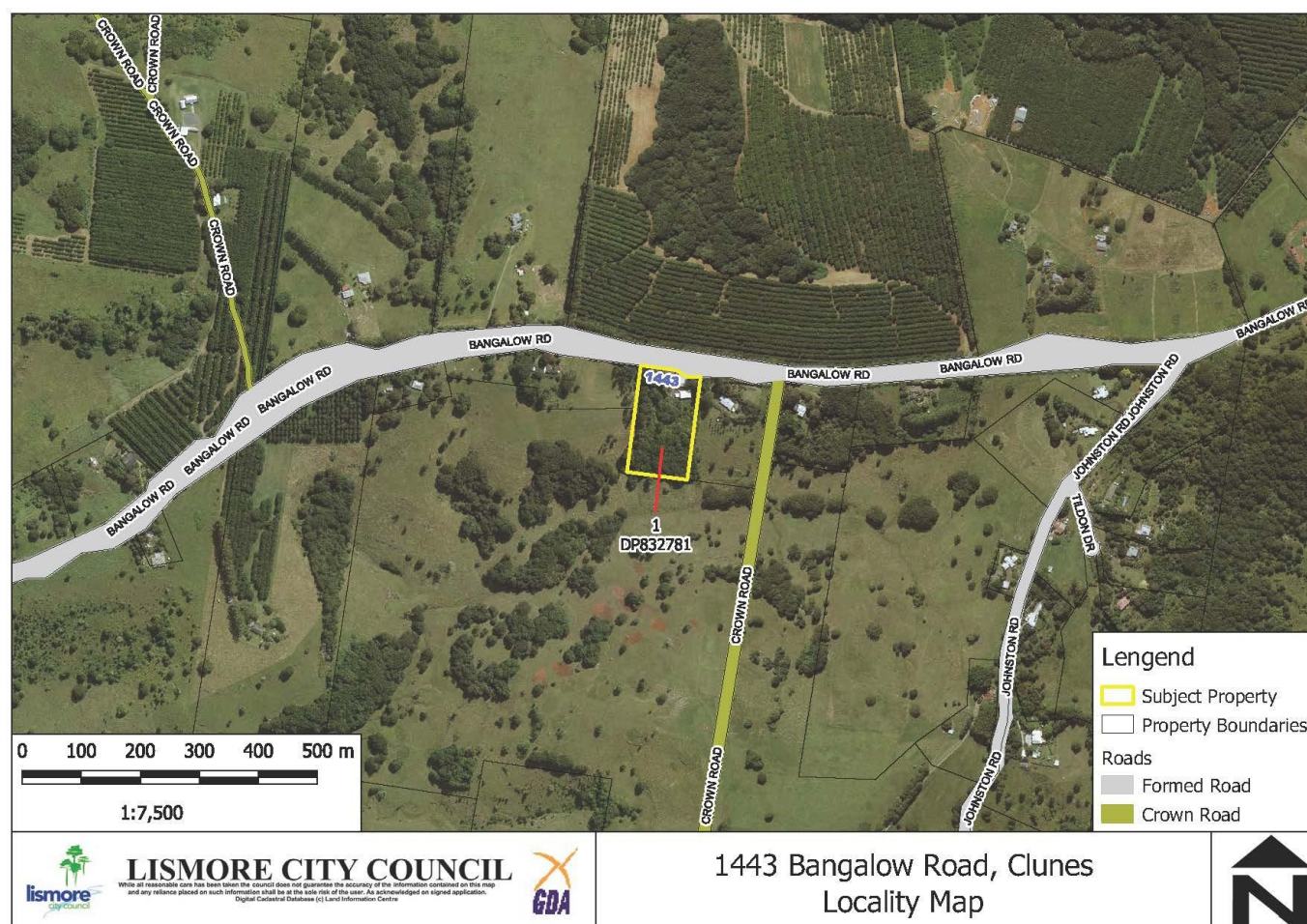


Figure 1: Locality of the subject site

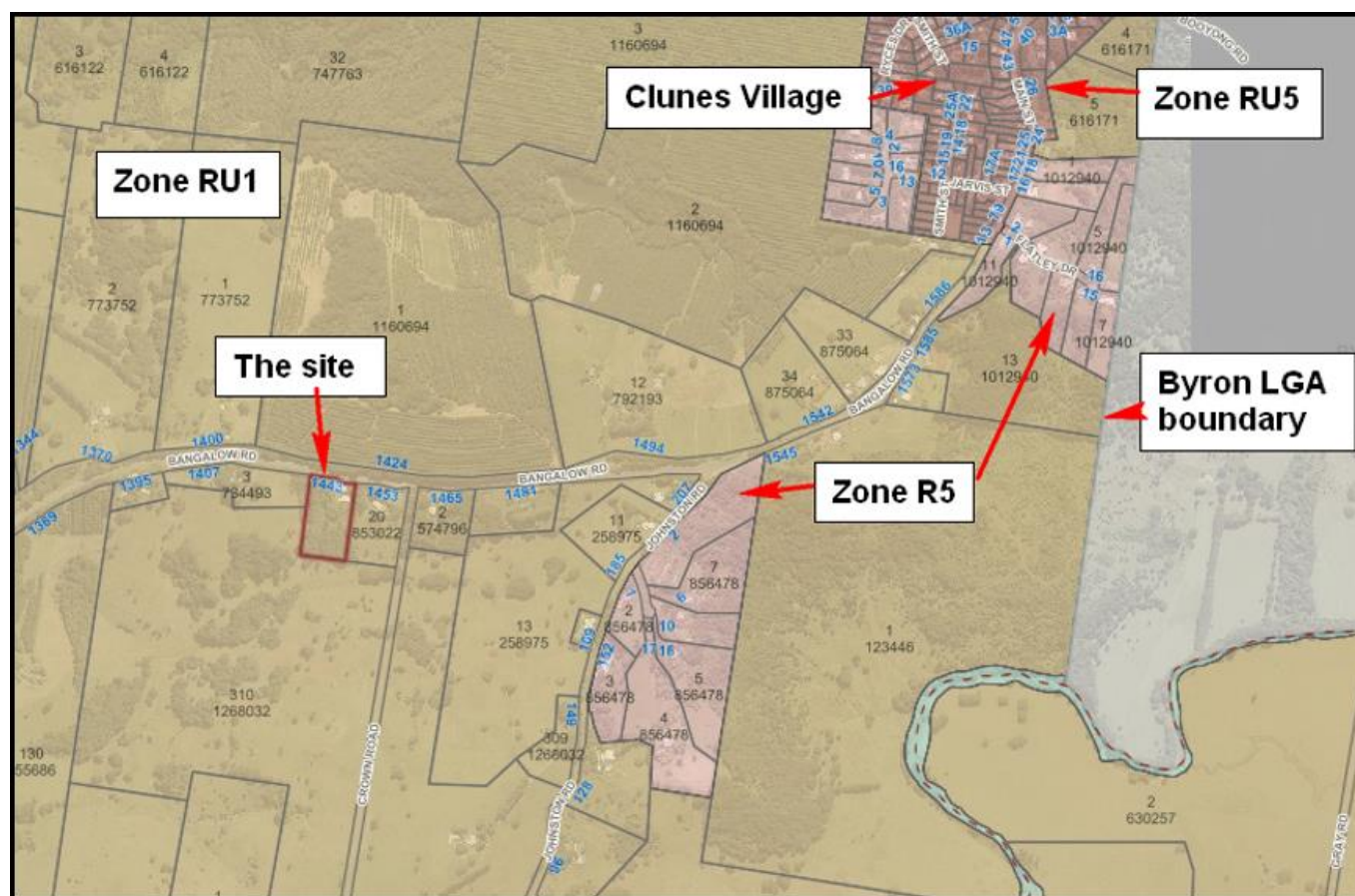


Figure 2: Zoning of subject site and surrounding locality

The land has an area of 1.8ha and surrounding land uses include rural residential lots of a similar size to the east and west, grazing land to the south and intensive agriculture (macadamia plantation) on the northern side of Bangalow Road. The site contains two existing buildings (sheds) and associated infrastructure and is largely covered in vegetation.

The site has been used as a 'vehicle body repair shop' or a similar use since the 1960's. However, since 2000 when the Lismore LEP came into force, the use of the land for a 'vehicle body repair shop' has been prohibited by the land use table for Zone RU1 and remains prohibited in the Lismore LEP 2012. However, by virtue of the previous consents, the site enjoys "Existing Use" rights under Division 4.11 of the EP&A Act and Clauses 39 to 46 of the EP&A Act Regulations. These provisions allow for a future expansion or intensification of the existing use at the site.

Clause 6(7) of the Lismore Interim Development Order No.40 allowed for the creation of a special purpose lot of under 40 hectares and DA92/1 included a condition that the lot "only be used for the purpose of a panel beating and spray-painting workshop". Therefore, the lot does not have an entitlement to a dwelling under Clause 4.2B of the Lismore LEP 2012.

Overview of the planning proposal

The detailed Planning Proposal is located at Attachment 1 to this report and has been structured in line with the NSW Department of Planning and Environment guidelines. Table 1 of this report provides an overview of the Planning Proposal, including Council's assessment of the environmental, social and heritage related impacts.

Table 1 – Planning Proposal summary

Part	Requirement	Description of Planning Proposal
1	OBJECTIVES OR INTENDED OUTCOMES	To amend the minimum lot size and enable a dwelling entitlement for 1443 Bangalow Road, Clunes (Lot 1 DP 832781).
2	EXPLANATION OF PROVISIONS	The objective of the proposal will be achieved by amending the Lot Size Map (LSZ_005) to allow for a new minimum lot size of 1.5ha (Y2). No change to the written instrument (LLEP 2012) is required.
3	JUSTIFICATION Section A – Need for the Planning Proposal <i>Q1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?</i> <i>Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</i>	<ul style="list-style-type: none"> The land is not mapped in any strategic study or report, it was initiated by the landowner. However, the proposed residential use of the land is more consistent with the surrounding land use pattern in the area. The proposal will also result in the discontinued use of the current 'vehicle body repair shop' which is no longer a permitted use within zone RU1. The Planning Proposal is the best way to enable a residential use on the subject site.
	JUSTIFICATION Section B – Relationship to strategic planning framework <i>Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?</i> <i>Q4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?</i> <i>Q5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?</i> <i>Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?</i> <i>Q7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?</i>	<ul style="list-style-type: none"> The Planning Proposal aligns with the North Coast Regional Plan The Planning Proposal is consistent with Imagine Lismore 2017-2027, Council's Community Strategic Plan No other state or regional plans are applicable The Planning Proposal is consistent with the State Environmental Planning Policies (SEPPs) The Planning Proposal is consistent with Section 9.1 Ministerial directions, or any inconsistencies can be justified
	JUSTIFICATION Section C – Environmental, social and economic impact <i>Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?</i> <i>Q9. Are there any other likely environmental effects of the planning proposal and how are</i>	<ul style="list-style-type: none"> Council's mapping does not indicate any significant ecological constraints on the site. Any future DA that requires any vegetation removal or disturbance will need to address the relevant planning controls at that time. The contamination report that accompanies the Planning Proposal concludes that the site is uncontaminated. Council's Environmental Health team have reviewed the report and are satisfied. A technical Land Use Conflict Risk

Part	Requirement	Description of Planning Proposal
	<p><i>they proposed to be managed?</i></p> <p>Q10. Has the planning proposal adequately addressed any social and economic effects?</p>	<p>Assessment (LUCRA) report was submitted to Council and has been reviewed by Council's Environmental Health Team. As a result, an 80m buffer, which includes a 30m biological buffer, has been agreed to provide a buffer from Bangalow Road and the agricultural use to the north (macadamia orchard).</p> <ul style="list-style-type: none"> • A Wastewater Management Report was submitted to Council to support the planning proposal. The report identifies a suitable area for the placement of an on-site sewage management system, which meets council's On-site Sewage and Wastewater Management Strategy, including the provision of reserve land application areas and compliance with buffer setbacks to waterways and property boundaries. • Any future DA for a dwelling will need to demonstrate compliance with the requirements in Planning for Bushfire Protection 2019 • There are no known Aboriginal sites of places identified within 50 meters of the subject land and the land is not listed as a heritage item • The Planning Proposal will not adversely impact upon existing rural land and will not impact upon the uses that are currently able to be undertaken at the site other than allowing consideration for a dwelling and removing the existing use at the site for a vehicle repair body repair shop. There is suitable industrial zoned land in Lismore for this land use.
	<p>JUSTIFICATION Section D – Infrastructure (Local, State and Commonwealth) Q11. Is there adequate public infrastructure for the planning proposal?</p>	<p>All services are available or can be provided</p>
	<p>JUSTIFICATION Section E – State and Commonwealth Interests Q12. What are the views of State and Commonwealth public authorities and government agencies consulted in order to inform the Gateway determination?</p>	<p>It is recommended that the Rural Fire Service are consulted following the Gateway Determination</p>
4	MAPS	<p>LEP Maps are provided in section 4 of the Planning Proposal found within Appendix 1 of this report</p>
5	COMMUNITY CONSULTATION	<p>Recommended 28-day exhibition period (Refer to Attachment 1 for detail)</p>

Part	Requirement	Description of Planning Proposal
6	PROJECT TIMELINE	Recommendation of approximately 12 months for completion (Refer to Attachment 1 for detail)

Comments

Finance

Not required.

Other staff comments

The Environmental Health and Public Health team provided a referral for the Planning Proposal. Their comments have been incorporated into the Planning Proposal and table 1 above.

Public consultation

Council will commence community consultation post Gateway determination. For the purposes of public notification, it is considered that a twenty-eight (28) day public exhibition period is appropriate. The duration of the exhibition period will be determined as part of the Gateway determination.

Notification of the exhibited planning proposal will include:

- publication in Council's Local Matters newsletter that circulates in the area affected by the Planning Proposal;
- the websites of Lismore City Council and the Department of Planning and Environment;
- letter to adjoining landholders

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.

Exhibition material:

- 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.

The Gateway determination will confirm the public consultation requirements.

Conclusion

The Planning Proposal seeks to change the minimum lot size for 1443 Bangalow Road, Clunes (Lot 1 DP 832781) to enable a development application for a residential use to come forward on the land. Council's initial assessment of the Planning Proposal finds that the land can suitably accommodate a residential use and that a residential use would be more in line with the surrounding characteristic of the area.

Following Council approval, the Planning Proposal will be submitted to the NSW Department of Planning and Environment for Gateway determination and then subsequently consulted on with relevant agencies and the public. It is expected that a further report to Council will be made early 2023 to discuss the outcomes of this process, if required.

Attachment/s

1. Planning Proposal - Change to minimum lot size, 1443 Bangalow Road (Over 7 pages)