

Planning Proposal

SIXTH ROUND OF GENERAL AMENDMENTS

September 2021



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EXECUTIVE SUMMARY

Lismore City Council periodically reviews the Local Environmental Plan 2012 (LEP 2012) with changes to zones, the land use table, principal development standards and schedules.

This proposal includes minor amendments to the Land Use Table; Principal development standards, Schedule 5 *Environmental heritage*; and the Land Zoning Map and Height of Buildings Map.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The intended outcomes of this proposal include:

- Amending the Land Use Table to prohibit the land use 'School based child care' in two industrial zones
- Amending Schedule 5 Environmental Heritage with regard to properties in South Lismore and Tregeagle.
- Amending the Land Zoning Map with regard to various properties to reflect changes in land ownership from both public to private and private to public.

PART 2 – EXPLANATION OF PROVISIONS

This planning proposal is the sixth round of general amendments to LEP 2012. Details of the planning proposal are provided in Table 1 below:

Table 1 - Details of the planning proposal

| Item/Site | Proposed Amendment | | | | | | |
|---|---|---------|----------------------|--------------------------------|-------------------|---|--|
| Part 2 Land Use Table | | | | | | | |
| 1. Zone IN1 General Industrial and IN2 Light Industrial | Land Use Table Zone IN1 – General Industrial Zone IN2 – Light Industrial Insert 'School-based child care' into item 4 as it should be prohibited but is currently permissible. | | | | | | |
| Part 4 Principal development standards | | | | | | | |
| 2. Clause 4.2B Erection of dual occupancies and dwelling houses on land in certain rural and environment protection zones | Minor change to wording to Clause 4.2B by inserting additional text at 4.2B (3B) <i>Development consent must not be granted under subclause 4.2B(3) for a lot created under subclause 4.2D(3) unless the erection of a dual occupancy or a dwelling house would have been permissible on the land immediately prior to the boundary adjustment.</i> | | | | | | |
| Schedule 5 Environmental heritage | | | | | | | |
| 3. 7 Engine Street, South Lismore (Lot 1, DP 1006135) | Schedule 5 Part 3 Archaeological sites Amend the entry for 7 Engine Street, South Lismore - Railway Shed (Item no. A11) as follows: <table><tr><th>Address</th><th>Property Description</th></tr><tr><td>7 Engine Street, South Lismore</td><td>Lot 1, DP 1006135</td></tr><tr><td>Delete 'State' and replace with 'Local'</td><td></td></tr></table> | Address | Property Description | 7 Engine Street, South Lismore | Lot 1, DP 1006135 | Delete 'State' and replace with 'Local' | |
| Address | Property Description | | | | | | |
| 7 Engine Street, South Lismore | Lot 1, DP 1006135 | | | | | | |
| Delete 'State' and replace with 'Local' | | | | | | | |
| 4. 450 Alphadale Road, Tregeagle (Lot 1, DP 919314) | Schedule 5 Part 1 Environmental Heritage Include St Peter and St Pauls Church Tregeagle at 450 Alphadale Road, Tregeagle (Lot 1, DP 919314) as an item of Local Significance with identifier Item No. I105. This item was identified in the Lismore Heritage Study 1995 as having local significance. | | | | | | |

| Item/Site | Proposed Amendment |
|---|--|
| Mapping | |
| 5. 2 Cassia Crescent, Goonellabah (Lot 1, DP 630988) | Land Zoning Map Rezone land from Zone RE1 Public Recreation to Zone RE2 Private Recreation due to change from public to private landownership. |
| 6. 10 Eden Street, Girards Hill (Lot 1, DP 1274234) | Land Zoning Map Rezone land from Zone RE1 Public Recreation to part Zone R1 General Residential and part E2 Environmental Conservation. |
| 7. Part of 182A Union Street, South Lismore (Lot 3, DP 1269893) | Land Zoning Map Rezone part of land from B6 Enterprise Corridor to RE1 Public Recreation. |
| 8. Part of 210A Union Street, South Lismore (Lot 1, DP 1269893) | Land Zoning Map Rezone part of land from B6 Enterprise Corridor to RE1 Public Recreation |
| 9. Part of 210 Union Street, South Lismore (Lot 4, DP 1269893) | Land Zoning Map Rezone part of land from Zone RE1 Public Recreation to Zone B6 Enterprise Corridor. |
| 10. 13 Spurfield Road, McLeans Ridges (Lot 429, DP 1256075) | Land Zoning Map Rezone from Zone R5 Large Lot Residential to Zone RE1 Public Recreation |
| 11. Part of 15 Holland Street, Goonellabah (Lot 2, DP 1184989) | Land Zoning Map Rezone from part IN1 General Industrial to part E2 Environmental Conservation |
| 12. Archibald Place, South Lismore | Land Zoning Map Rezone from RE1 Public Recreation to B6 Enterprise Corridor |

PART 3 – JUSTIFICATION

Section A – Need for the Planning Proposal

1. *Is the Planning Proposal a result of any strategic study or report?*

The planning proposal is not a result of any strategic study or report. The planning proposal is part of a periodic review of LEP 2012 aiming to change land use zones, adjust the land use table, refine non-mandatory provisions and amend schedules as required.

2. *Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning proposal is the best means of achieving the intended outcomes listed in Part 1 of this report. Table No. 2 below provides justification for the proposed amendments.

Table 2 Justification for the proposed amendments.

| Item | Justification |
|--|--|
| Land Use Table | |
| 1. 'School based child care' in Zones IN1 and IN2 | The Standard Instrument (Local Environmental Plans) Amendment (Child Care) Order 2017 came into force on 1/9/2017. Various mandatory land uses were added to all LEPs. The land uses included a new group term 'early education and care facilities' and a new sub term 'school-based child care'. In relation to Zones IN1 and IN2, the new land use 'school-based child care' was erroneously permitted with consent as schools are prohibited within these zones. It is proposed to insert 'school-based child care' in item 4 of the Zone IN1 & IN2 land use table in order to prohibit this land use. |
| Part 4 Principal development standards | |
| 2. Clause 4.2B(3) - Erection of dual occupancies and dwelling houses on land in certain rural and environmental protection zones | Clause 4.2B sets out criteria for land within zones RU1, RU2 and E3 to have a dwelling entitlement. It has been identified that land without a dwelling entitlement that is the subject of a boundary adjustment under this clause may acquire a dwelling entitlement. This change is designed to prevent such a dwelling entitlement to inadvertently result from a boundary adjustment subdivision. |
| Schedule 5 Environmental heritage | |

| Item | Justification |
|---|--|
| <p>3. 7 Engine Street, South Lismore (Lot 1, DP 1006135) -</p> <p>Part 3 Archaeological sites - Item A11</p> | <p>The Railway shed at 7 Engine Street South Lismore is currently listed as a State Heritage item. However, recent advice from Heritage NSW that was given for the DA to develop the site for a craft brewery states that the item is not of State Heritage Significance. This advice is substantiated by the Statement of Significance (prepared by Perumal Murphy Wu as part of the Lismore heritage study 1995) that states the site is of Regional heritage significance. It is proposed to delete the word 'State' and replace it with the word 'Local'.</p> |
| <p>4. 450 Alphadale Road, Tregeagle (Lot 1, DP 919314)</p> | <p>St Peter and St Pauls Church Tregeagle at 450 Alphadale Road, Tregeagle (Lot 1, DP 919314) was identified in the Lismore Heritage Study 1995 as having local significance, however, it was not included in the LEP as a heritage item. A parishioner has requested that the heritage significance of this building be protected through a heritage listing. It is proposed to include this an item of Local Significance (with identifier Item No. I105).</p> |
| Mapping | |
| <p>5. 2 Cassia Crescent, Goonellabah (Lot 1, DP 630988)</p> | <p>This land was purchased by Jar-Jum Pre-school in from Council. DA18/27 was issued for the development of a Pre-school.</p> <p>Due to the change in ownership from public to private ownership, it is appropriate to change the zone from Zone RE1 Public Recreation to Zone RE2 Private Recreation.</p> |
| <p>6. 10 Eden Street, Girards Hill (Lot 1, DP 1270079)</p> | <p>The landowner of 10 Eden Street recently purchased a Council road reserve (formerly 4A Eden Street) that has been consolidated into 10 Eden Street to construct a shed on this land. A shed that is ancillary to a dwelling is prohibited in Zone RE1 Public Recreation so a rezoning is proposed to part R1 General Residential to facilitate the shed development on approximately 300m² of the site with direct road access. It is proposed to rezone the highly constrained steep western part of the site to part E2 Environmental Conservation because it comprises mature regrowth Lowland Rainforest, classed as an Endangered Ecological Community (EEC) and key threatened species habitat (koala habitat, birds, microbats, insects).</p> |
| <p>7. Part of 182A Union Street, South Lismore (Lot 3, DP 1269893)</p> | <p>Council recently purchased this small parcel of land from the adjacent AJ Mills & Sons Pty Ltd because it comprises a sports shed and is part of the Council owned Riverview park. This rezoning is aimed at correcting the zones following various boundary adjustments with adjacent Mills Transport site that is within Zone B6 Enterprise Corridor.</p> |
| <p>8. 210A Union Street, South Lismore (Lot 1, DP 1269893)</p> | <p>Council recently purchased this small parcel of land from the adjacent AJ Mills & Sons Pty Ltd because it comprises part of the Riverview park oval maintained by Council and some boundary vegetation. It is proposed to rezone this part of land from Zone B6 Enterprise Corridor to Zone RE1 Public Recreation due to change from private to public and to reflect its use as parkland.</p> |
| <p>9. Part of 210 Union Street, South Lismore (Lot 4, DP 1269893)</p> | <p>This small land parcel has recently been purchased from Council by AJ Mills & Sons Pty Ltd and consolidated into the same land parcel as the Mills Transport site because it comprises the sealed entrance to the site. It is proposed to rezone part of land from Zone RE1 Public Recreation to Zone B6 Enterprise Corridor due to change from public to private landownership and to reflect its land use as part of the Mills Transport site.</p> |
| <p>10. 13 Spurfield Road, McLeans Ridges (Lot 429, DP 1256075)</p> | <p>This land parcel was created as a public reserve as a condition of the Planning Agreement attached to the subdivision of Cameron and Spurfield Roads (DA 10/77).</p> <p>Due to the Council ownership of the parcel, the appropriate zone is Zone RE1 Public Recreation.</p> |
| <p>11. 15 Holland Street, Goonellabah (Lot 2, DP 1184989)</p> | <p>The steep slope of this land precludes its use for industrial development. The other half of this site is within Zone RE1 and forms part of the Tucki Tucki Recreational Park. Zone E2 Environmental Conservation is the most appropriate zone as the site comprises vegetation (Lowland Subtropical Rainforest in North Coast) that is defined as an Endangered Ecological Community (EEC) and key threatened species habitat (numerous preferred koala habitat for foraging, refugia and movement corridors (ie. Tallowwoods, Forest Red Gums). The sites meets the Department of Planning criteria for applying an E zone.</p> |
| <p>12. Archibald Place, South Lismore</p> | <p>The road reserve of Archibald Place, South Lismore is currently within Zone RE1 Public Recreation due to its proximity to Riverview Park, South Lismore. This road reserve provides informal public access to Riverview Park, however the primary entrance to Riverview park is located north of this area via Riverview Road. It is proposed to rezone Archibald Place to Zone B6 Enterprise Corridor because it should be consistent with the zone of Mills Transport as the main purpose of this road reserve is the provision of primary access to the Mills Transport site.</p> |

Section B – Relationship to Strategic Planning Framework

3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The planning proposal is consistent with the actions contained within the North Coast Regional Plan 2036.

4. *Is the Planning Proposal consistent with the Council's local strategy or other local strategic plan?*

The planning proposal is consistent with the Lismore Growth Management Strategy 2015 – 2035 and Imagine Lismore (Community Strategic Plan) 2017 – 2027.

The planning proposal is consistent with the Lismore 4 year Delivery Program (2017–2021) Strategy D3.2 *Ensure a diverse range of land use and development opportunities are available*. The proposal is also consistent with the 1 year Operational Plan Action D3.2.1 *Monitor the Local Environmental Plan and amend as required in response to community and development industry needs*.

5. *Is the Planning Proposal consistent with applicable State Environmental Planning Policies?*

The planning proposal is consistent with the applicable State Environmental Planning Policies. A checklist of the SEPPs is provided at Appendix 3.

6. *Is the Planning Proposal consistent with applicable s9.1 Ministerial Directions?*

The planning proposal is consistent, or any inconsistency can be justified, with the applicable s9.1 Ministerial Directions. A Section 9.1 checklist for the planning proposal is provided at Appendix 4.

Section C – Environmental, Social and Economic Impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities or their habitats, will be adversely affected as a result of the proposal?*

The planning proposal is not likely to adversely impact threatened species, populations or ecological communities or their habitats. Table 3 below provides an assessment of each of the planning proposal items. There is no critical habitat in the Lismore LGA.

Table 3 Likelihood of adverse impact on threatened species, populations or ecological communities or their habitats.

| Item | Threatened species or high conservation value vegetation on site? | Adverse impact on threatened species, populations or ecological communities or their habitats |
|---|---|---|
| 1. 'School based child care' in Zones IN1 and IN2 | Unlikely. Industrial zones are long established and include intensive commercial land uses. | None |
| 2. Clause 4.2B(3) regarding dwelling entitlements on undersized residue lots in certain rural or environmental protection zones | N/A | None |
| 3. 7 Engine Street, South Lismore | N/A | None |
| 4. 450 Alphadale Road, Tregear | N/A | None |
| 5. 2 Cassia Crescent, Goonellabah | The site contains secondary koala habitat. DA18/27 has already been determined on 18/6/18 for a pre-school on the site. The plans show the majority of the vegetation will be retained. | The likelihood of adverse impacts from the rezoning on the secondary koala habitat on the site are low. |

| Item | Threatened species or high conservation value vegetation on site? | Adverse impact on threatened species, populations or ecological communities or their habitats |
|--|---|---|
| | The DA does approve some removal of native vegetation with conditions for 16 compensatory plantings and a landscaping plan. The rezoning from RE1 Public Recreation to RE2 Private Recreation has no impact on the native vegetation on the site. | |
| 6.10 Eden Street, Girards Hill | Most of the site is heavily vegetated with some elements of mature regrowth Lowland Rainforest and key threatened species habitat. Council's Ecologist has assessed that significant investment is being made to extensive best practice weed control and natural regeneration of native species. | Low. <ul style="list-style-type: none"> Only a small part of the eastern area of the site is proposed for rezoning to Zone R1 General Residential and is generally clear of vegetation. The majority of the site is proposed for rezoning to E2 Environmental Management. The area proposed for rezoning to E2 zone is part of a broader area of dense vegetation that extends south (the Lismore Golf Course) and west of the site (Robinson's Lookout). |
| 7. Part of 182A Union Street, South Lismore | This small parcel contains part of a sports shed and some vegetation surrounding the Riverview park sports field. The rezoning to RE1 Public Recreation is not expected to have any impacts on this vegetation. | Unlikely. The likelihood of adverse impacts on threatened species, populations or ecological communities is very low as the proposed Zone RE1 Public Recreation only permits a restricted number of land uses. |
| 8. Part of 210A Union Street, South Lismore. | This small parcel comprises part of the Riverview park sports field and boundary plantings along the south western lot boundary. | Unlikely. The likelihood of adverse impacts on threatened species, populations or ecological communities is very low as the proposed Zone RE1 Public Recreation only permits a restricted number of land uses. |
| 9. Part of 210 Union Street, South Lismore. | This small area of the Mills Transport site comprises the sealed entrance and gate to the business and contains some boundary landscaped plantings. | Unlikely. The likelihood of adverse impacts on threatened species, populations or ecological communities is very low. |
| 10. 13 Spurfield Road, McLeans Ridges | This site has been embellished with neighbourhood park amenities and also comprises a small row of trees and shrubs in the north eastern corner and is otherwise cleared of vegetation. | N/A |
| 11. 15 Holland Street, Goonellabah | This site is part of the Tucki Tucki Creek Recreational Park and comprises vegetation (Lowland Subtropical Rainforest in North Coast) that is defined as an Endangered Ecological Community (EEC) and key threatened species habitat (numerous preferred koala habitat for foraging, refugia and movement corridors (ie. Tallowwoods, Forest Red Gums). | Low. The rezoning from an industrial zone to E2 Environmental Conservation will have a beneficial outcome on the ecological community. The site is highly constrained by slope and E2 Zone significantly restricts future development. |
| 12. Archibald Place, South Lismore | This site is a sealed road reserve that is the primary access to the | N/A |

| Item | Threatened species or high conservation value vegetation on site? | Adverse impact on threatened species, populations or ecological communities or their habitats |
|------|---|---|
| | Mills Transport site. The site does not contain any vegetation. | |

8. Are there any likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

An overview of the natural hazards that apply to land proposed for rezoning is provided below in Table 4. Several of the sites proposed for minor rezonings are identified as bushfire prone land. The planning proposal will be referred to the NSW Rural Fire Service in accordance with Ministerial Direction 4.4. There are no likely negative environmental effects associated with the planning proposal with regards to natural hazards.

Table 4 Natural hazards

| Item | Flood | Landslip | Bushfire | Contaminated land | Acid sulfate soils |
|---|---|----------|---|---|--------------------|
| 1. 'School based child care' in Zones IN1 and IN2 | Yes Parts of the industrial zones in Lismore (ie. North and South Lismore) are in the flood planning area. LEP & DCP provide robust planning controls to mitigate against adverse impacts. | No | Some areas in industrial zones are mapped as bushfire prone (the Goonellabah industrial estate). Referred to RFS. | N/A | No |
| 2. Clause 4.2B(3) regarding dwelling entitlements on undersized residue lots in certain rural or environmental protection zones | N/A | N/A | N/A | N/A | N/A |
| 3. 7 Engine Street, South Lismore | Yes, this land is within the Flood Fringe category according to the Lismore Floodplain Management Plan. The proposed change does not increase the development potential or intensify the development yield of the site. | N/A | N/A | This site is mapped as 'potentially contaminated' in Council's GIS. A technical report has indicated that land contamination is being addressed as part of a recent DA through onsite management strategies that will contain, not remediate contaminants of concern. | N/A |
| 4. 450 Alphadale Road, Tregear | N/A | N/A | This land is mapped as being bushfire prone within the 'Vegetation | N/A | N/A |

| Item | Flood | Landslip | Bushfire | Contaminated land | Acid sulfate soils |
|---|--|---|---|---|--------------------|
| | | | Buffer' category. This Planning Proposal will be referred to the NSW RFS. | | |
| 5. 2 Cassia Crescent, Goonellabah | N/A | N/A | N/A | N/A. | N/A |
| 6. 10 Eden Street, Girards Hill | N/A | The site is characterised by steep slope on the western highly vegetated part of the land. The slope is mapped as 'mountainous' ranging between 33-50%. | This site is mapped as bushfire prone and the whole site is within Vegetation Category 1. A referral to the RFS will be required. | N/A | N/A |
| 7. Part of 182A Union Street, South Lismore | This site is within the 'High Flood Risk' and 'Floodway' categories in the Lismore Floodplain Risk Management mapping. Relevant flood controls contained in the LEP and DCP regulate any future development of the site. | No | Parts of the site adjacent to the Wilsons River are mapped as bushfire prone in vegetation category 2 and vegetation buffer areas. A referral to the RFS is required. | N/A | N/A |
| 8. Part of 210A Union Street, South Lismore | This site is within the 'Floodway' category in the Lismore Floodplain Risk Management mapping. Relevant flood controls in the LEP and DCP regulate any future development of the site. | N/A | N/A | N/A | N/A |
| 9. Part of 210 Union Street, South Lismore | This site is within the 'High Flood Risk' and 'Floodway' categories in the Floodplain Risk Management mapping. Relevant flood controls contained in the LEP and DCP | N/A | Parts of the site adjacent to the Wilsons River are mapped as bushfire prone in vegetation category 2 and vegetation buffer areas. A referral to the RFS is required. | This site is mapped as potentially contaminated according to Council's GIS due to petroleum storage tanks located underground. These tanks are not operational. This rezoning | N/A |

| Item | Flood | Landslip | Bushfire | Contaminated land | Acid sulfate soils |
|---------------------------------------|---|----------|---|---|--------------------|
| | regulate any future development of the site. | | | does not alter the development potential of the site or allow for a greater intensification of development of the site so any risks are considered to be low. | |
| 10. 13 Spurfield Road, McLeans Ridges | N/A | N/A | N/A | N/A | N/A |
| 11. 15 Holland Street, Goonellabah | N/A | N/A | This site is mapped as bushfire prone with Vegetation in Category 1 and 2. Referral to the RFS is required. | N/A | N/A |
| 12. Archibald Place, South Lismore | This road reserve is located in an area that is subject to 'High Flood Risk' according to the Lismore Flood Management Plan. The land does not have any development potential due to its use as an access road. | N/A | N/A | N/A | N/A |

9. How has the Planning Proposal adequately addressed any social and economic effects?

A review of Aboriginal and European cultural heritage has been undertaken. The general amendments planning proposal involves minor changes to the land use table; minor modifications to existing provisions; and site specific mapping changes. The proposed modifications to the written instrument will have no adverse impacts on cultural heritage values. All of the sites proposed for mapping amendments were assessed for their cultural heritage value with reference to the Aboriginal Heritage Management Information System (AHMIS) and an unpublished report entitled "Wiy-abal Aboriginal Clan (Bundjalung Nation) Cultural Heritage & Values Relating to the Lismore City Council Local Government Area" prepared by Collins M and Heron R dated June 2000. Sites 3 and 4 are identified as having heritage significance and an assessment of the proposal on heritage values is provided in Table 5 below. The planning proposal does not involve any negative social or economic impacts.

Table 5 - Heritage

| Item | Heritage assessment |
|-----------------------------------|--|
| 3. 7 Engine Street, South Lismore | The Railway shed at 7 Engine Street South Lismore is currently listed as a State Heritage item. However, recent advice from Heritage NSW that was given for the DA to develop the site for a craft brewery states that the item is not of State Heritage Significance. This advice is substantiated by the Statement of Significance |

| | |
|----------------------------------|---|
| | (prepared by Perumal Murphy Wu as part of the Lismore heritage study 1995) that states the site is of Regional heritage significance. It is proposed to delete the word 'State' and replace it with the word 'Local'. |
| 4. 450 Alphadale Road, Tregeagle | St Peter and St Pauls Church Tregeagle at 450 Alphadale Road, Tregeagle (Lot 1, DP 919314) was identified in the Lismore Heritage Study 1995 as having local significance, however, it was not included in the LEP as a heritage item. A parishioner has requested that the heritage significance of this building be protected through a heritage listing. It is proposed to include this an item of Local Significance (with identifier Item No. I105). |

Section D – State and Commonwealth Interests

10. Is there adequate public infrastructure for the Planning Proposal?

The planning proposal will not create additional demand for public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Several of the sites that are subject to the proposed amendments are bush fire prone and Council is required to consult with the NSW Rural Fire Service in accordance with s9.1 Ministerial Direction 4.4.

The views of State and Commonwealth public authorities will be sought in accordance with the Gateway determination.

PART 4 - MAPPING

This Planning Proposal involves an amendment to the Land Zoning, Heritage and Height of Building LEP maps. The existing and proposed zone maps are included in an Attachment to this Planning Proposal.

PART 5 – COMMUNITY CONSULTATION

Council will commence community consultation post Gateway determination. Council considers that a twenty eight (28) day public exhibition period is appropriate in this instance.

Notification of the exhibited planning proposal will include:

- A newspaper advertisement (Local Matters) that circulates in the area affected by the planning proposal.
- The website of Lismore City Council and the Department of Planning, Industry and Environment.
- Letter to affected landholders regarding mapping amendments.

The written notice:

- 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, Industry and Environment.
- The Gateway determination.

PART 6 – PROJECT TIMELINE

The proposed timeline for the completion of the planning proposal is as follows:

| Estimated Completion | Plan Making Steps |
|-----------------------|--|
| October 2021 | Report Planning Proposal to Council |
| November 2021 | Gateway determination issued by Department of Planning, Industry and Environment. |
| December/January 2022 | Government agency and public consultation |
| February 2022 | Analysis of public submissions & public agency comments Preparation of Council report |
| March 2022 | Report to Council |
| April 2022 | Opinion sought from Parliamentary Counsel's Office Preparation of LEP Map sheets |
| May 2022 | Making and notification of the LEP. |

APPENDIX 1

STATE ENVIRONMENTAL PLANNING POLICIES COMPLIANCE TABLE

| State Environmental Planning Policy | Requirements | Compliance |
|--|---|--|
| SEPP (Aboriginal Land) 2019 | N/A | N/A |
| SEPP (Activation Precincts) 2020 | N/A | N/A |
| SEPP (Affordable Rental Housing) 2009 | N/A | N/A |
| SEPP (Building Sustainability Index: BASIX) 2004 | N/A | N/A |
| SEPP (Coastal Management) 2018 | The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 , including the management objectives for each coastal management area, by— (a) managing development in the coastal zone and protecting the environmental assets of the coast, and (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016 . | <u>Item 7:</u> 182A Union Street, South Lismore (Riverview Park) is located in the 'Coastal Use Area' according to the Coastal SEPP mapping. Part of this site is proposed to be rezoned from B6 to RE1 so the future development potential is reduced. The proposal is consistent with the SEPP objectives. <u>Item 9:</u> 210 Union Street, South Lismore is located in the 'Coastal Use Area' according to the Coastal SEPP mapping. Part of this site is being rezoned from RE1 to B6 as it forms part of the Mills Transport site. The proposal is consistent with the SEPP objectives. <u>Item 8:</u> 210A Union Street, South Lismore is located in the 'Coastal Use Area' according to the Coastal SEPP mapping. Part of this site is proposed to be rezoned from B6 to RE1 so the future development potential is reduced. The proposal is consistent with the SEPP objectives. |
| SEPP (Concurrences and Consents) 2018 | N/A | N/A |
| SEPP (Educational Establishments and Child Care Facilities) 2017 | The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. | <u>Item 1:</u> This proposal prohibits school based child care in both IN1 and IN2 so is compatible with the SEPP objectives. |
| SEPP (Exempt and Complying Development Codes) 2008 | N/A | N/A |
| SEPP (Housing for Seniors or People with a Disability) 2004 | N/A | N/A |
| SEPP (Infrastructure) 2007 | The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. | |
| SEPP (Koala Habitat Protection) 2020 | This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline— (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and | <u>Item 6:</u> 10 Eden Street, Girards Hill contains koala habitat and hoop pine. It is evident that some areas of the site have been planted with native planting to regenerate the land and weed controls measures have been employed. The rezoning of the majority of the site to E2 will restrict the permissible land uses to a level proportionate with the identified biodiversity values and is consistent with c) of this SEPP. |

| | | |
|--|---|---|
| | (b) by encouraging the identification of areas of core koala habitat, and (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones. | Item 10: 15 Holland Street, Goonellabah comprises Primary Koala Habitat. The proposal is to rezone part of the site from IN1 to RE1 due to site constraints precluding any industrial development of the site. Council owns the land as part of the Tucki Tucki Creek Corridor. |
| SEPP (Koala Habitat Protection) 2021 | | |
| SEPP (Major Infrastructure Corridors) 2020 | N/A | N/A |
| SEPP (Mining, Petroleum Production and Extractive Industries) 2007 | N/A | N/A |
| SEPP No. 21 – Caravan Parks | N/A | N/A |
| SEPP No. 33 – Hazardous and Offensive Development | N/A | N/A |
| SEPP No. 36 – Manufactured Home Estates | N/A | N/A |
| SEPP No. 55 – Remediation of Land | (1) The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land. (2) In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment— (a) by specifying when consent is required, and when it is not required, for a remediation work, and (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and (c) by requiring that a remediation work meet certain standards and notification requirements | See Appendix 2 - Ministerial Direction that now applies to Planning Proposals to rezone land. |
| SEPP No. 64 – Advertising and Signage | N/A | N/A |
| SEPP No.65 – Design Quality of Residential Apartment Development | N/A | N/A |
| SEPP No.70 – Affordable Housing (Revised Schemes) | N/A | N/A |
| SEPP (Primary Production and Rural Development) 2019 | The aims of this Policy are as follows— (a) to facilitate the orderly economic use and development of lands for primary production, (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, (c) to identify State significant agricultural land for the purpose of | Item 4 – 450 Alphadale Road, Tregear: this site is within Zone RU1 Primary Production. The inclusion of the site as a heritage item will have no impact on the potential for surrounding RU1 land to be used for primary production as the Church is an established land use and building (built in 1899) on a small lot of 1,000m ² . The land is mapped as State Significant Farmland and is surrounded by land ostensibly |

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| | ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental consideration | used for primary production. The heritage listing of the site is not expected to increase the potential for land use conflict with adjoining farming properties. |
| SEPP (State and Regional Development) 2011 | N/A | N/A |
| SEPP (Urban Renewal) 2010 | N/A | N/A |
| SEPP (Vegetation in Non-Rural Areas) 2017 | N/A | N/A |

APPENDIX 2

SECTION 9.1 MINISTERIAL DIRECTIONS COMPLIANCE TABLE

| Ministerial Directions | Requirements | Compliance |
|---|--|--|
| 1. Employment and Resources | | |
| 1.1 Business and Industrial Zones | <p>(4) must:</p> <ul style="list-style-type: none"> Give effect to objectives of this direction Retain existing business and industrial zones. Not reduce floor space for employment areas and related public services in business zones. Not reduce potential floor space for industrial uses in industrial zones. New employment areas in accordance with strategy approved by Director General DP&E. | <p>Consistent</p> <ul style="list-style-type: none"> <u>Item 1 - Land use tables for IN1 and IN2:</u> this change is fixing an anomaly to ensure that 'School-based Child Care' developments are prohibited so will not result in a reduction in floor space in industrial zones or the existing extent of industrial lands. <u>Items 7, 8, and 9 – 182A, 210 and 210A Union Street, South Lismore:</u> these items involve the rezoning of land to and from Zone B6 Enterprise Corridor to align the zones correctly following various boundary re-adjustments between Riverview Park and the adjoining Mills Transport site. There will be no tangible impacts on the business operations of the land within Zone B6. <u>Item 11 – 15 Holland Street, Goonellabah:</u> this item involves rezoning land from IN1 to RE1 due to the site constraints precluding its use for industrial development. |
| 1.2 Rural Zones | <p>(4) must:</p> <ul style="list-style-type: none"> Not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. Not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). | <p>Consistent</p> <p>This Planning Proposal only involves one land parcel that is in Zone RU1 Primary Production at 450 Alphadale Road, Tregear. The proposal is to heritage list the site which is not expected to increase the permissible density of the site.</p> |
| 1.3 Mining Petroleum Production and Extractive Industries | <p>This direction applies when the planning proposal:</p> <ul style="list-style-type: none"> Has the effect of prohibiting mining of coal or other minerals, production of petroleum, or winning or obtaining extractive materials; | N/A |

| Ministerial Directions | Requirements | Compliance |
|------------------------------------|--|---|
| | <ul style="list-style-type: none"> Restricting the potential of State or regionally significant mineral resources | |
| 1.4 Oyster Aquaculture | N/A | N/A |
| 1.5 Rural Lands | <p>(4) If this direction applies a planning proposal must:</p> <p>(a) be consistent with strategic plan,</p> <p>(b) consider the significance of agriculture,</p> <p>(c) identify and protect environmental values,</p> <p>(d) consider natural and physical constraints of the land,</p> <p>(e) promote opportunities for investment in productive sustainable rural economic activities,</p> <p>(f) support farmers exercising their right to farm,</p> <p>(g) minimise the fragmentation of rural land and reduce the risk of land use conflict</p> | <p>Consistent</p> <p>This Planning Proposal proposes to include 450 Alphadale Road, Tregeagle as a heritage item. The land is within RU1 Primary Production and is mapped as State Significant Farmland. No discernible impacts are expected to result from the heritage listing on land use conflict or surrounding farming enterprises.</p> |
| 2. Environment and Heritage | | |
| 2.1 Environment Protection Zones | <p>Must include provisions that facilitate the protection and conservation of environmentally sensitive areas</p> <p>Must not reduce protection standards for environmental protection zones.</p> | <p>Consistent</p> <ul style="list-style-type: none"> The planning proposal does not involve <i>environmentally sensitive areas</i> listed in Clause 3.3 of the LEP 2012. <u>Item 7</u> – 10A Eden Street, Girards Hill: part of this site is proposed to be included in Zone E2 Environmental Conservation due to identified significant biodiversity values. <u>Item 12</u> – 15 Holland Street, Goonellabah: part of this site is proposed to be included in Zone E2 Environmental Conservation due to identified significant biodiversity values. |
| 2.2 Coastal Management | <p>3 When this direction applies</p> <p>This direction applies to land that is within the coastal zone under the <i>Coastal Management Act 2016</i>.</p> <p>4 A planning proposal must include provisions that give effect to and are consistent with:</p> <p>(a) The objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management area;</p> <p>(b) The NSW Coastal Management Manual and associated Toolkit;</p> <p>(c) NSW Coastal Design Guidelines 2003;</p> <p>(d) Any relevant Coastal Management Program or Coastal Zone Management Plan.</p> | <p>Consistent</p> <p>The planning proposal is consistent with the objects of the <i>Coastal Management Act 2016</i>.</p> <ul style="list-style-type: none"> The NSW Coastal Management Manual provides guidance to assist local councils when preparing and implementing Coastal Management Programs (CMP) under the <i>Coastal Management Act 2016</i>, which replaced the <i>Coastal Protection Act 1979</i>. The coastal zone in Lismore City Council LGA and adjoining council areas operates under a Coastal Zone Management Plan (CZMP) prepared under the <i>Coastal Protection Act 1979</i>. The CZMP currently operates under the savings and transitional provisions of the <i>Coastal Management Act 2016</i> until such time that a CMP is adopted. The Coastal Management Manual and associated Toolkit would be used to prepare a future CMP. The planning proposal is consistent with the NSW Coastal Design Guidelines 2003. |

| Ministerial Directions | Requirements | Compliance |
|---|--|---|
| | 5 Not rezone land to enable increased development within a coastal vulnerability area; 6 Not rezone land to enable increased development within coastal wetlands and littoral rainforests. | <ul style="list-style-type: none"> The planning proposal is consistent with the management strategies of the Coastal Zone Management Plan (CZMP) for the Richmond River Estuary 2011. There is no land in the Lismore LGA within the Coastal Vulnerability Area. There is no littoral rainforest within the Lismore LGA. The planning proposal does not involve the rezoning of any land mapped as Coastal Wetland. |
| 2.3 Heritage Conservation | Planning proposal must incorporate provisions for conservation of European and Aboriginal heritage items or places. | <p>Consistent</p> <ul style="list-style-type: none"> <u>Item 3 – 7 Engine Street, South Lismore:</u> the Railway shed at this site is currently listed as a State Heritage item. However, recent advice from Heritage NSW that was given for the DA to develop the site for a craft brewery states that the item is not of State Heritage Significance. This advice is substantiated by the Statement of Significance (prepared by Perumal Murphy Wu as part of the Lismore heritage study 1995) that states the site is of Regional heritage significance. It is proposed to delete the word 'State' and replace it with the word 'Local'. This change has no impact on the level of Heritage protection the land has under the LEP. <u>Item 4 – 450 Tregeagle Road, Tregeagle:</u> St Peter and St Pauls Church Tregeagle (Lot 1, DP 919314) was identified in the Lismore Heritage Study 1995 as having local significance, however, it was not included in the LEP as a heritage item. A parishioner has requested that the heritage significance of this building be protected through a heritage listing. It is proposed to include this an item of Local Significance (with identifier Item No. I105). This Planning Proposal contains provisions for heritage protection of this site. |
| 2.4 Recreation Vehicle Areas | N/A | N/A |
| 2.5 Application of E2 & E3 Zones Far Nth Coast LEPs | <p>7 Public and private land inconsistent with the criteria</p> <p>Public land may be zoned E2 or E3 despite being inconsistent with the criteria, if the primary use of the land is environmental conservation or environmental management.</p> | <p>Consistent</p> <p><u>Item 6 – 10 Eden Street, Girards Hill:</u> An assessment has been undertaken against the E Zone criteria and the site fulfills the criteria to be included in Zone E2 Environmental Conservation due to the presence of elements of mature regrowth Lowland Rainforest (Endangered Ecological Community) and Key Threatened Species Habitat (the Koala, the Atlas Rainforest beetle, the pink underwing moth, various micro bats and birds).</p> <p><u>Item 11 – 15 Holland Street, Goonellabah:</u> An assessment has been undertaken against the E Zone criteria and the site fulfills the criteria to be included in Zone E2 Environmental Conservation due to the presence of vegetation classified as an Endangered Ecological Community and key threatened species habitat.</p> |

| Ministerial Directions | Requirements | Compliance |
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| 2.6 Remediation of Contaminated Land | (1) The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. | <p><u>Item 3 – 7 Engine Street, South Lismore:</u> This site is mapped as 'potentially contaminated' in Council's GIS. A technical report has indicated that land contamination is being addressed as part of a recent DA for a Brewhouse and Cellar Door (Two Mates Brewery) through onsite management strategies that will contain, not remediate contaminants of concern.</p> <p>The Planning Proposal is only amending a minor anomaly in the Heritage status of the site and will have no impact on the zone and the future development potential of the land.</p> <p><u>Item 9: Part of 210 Union Street, South Lismore:</u> This site is mapped as potentially contaminated according to Council's GIS due to petroleum storage tanks located underground. These tanks are not operational. This rezoning does not alter the development potential of the site or allow for a greater intensification of development of the site so any risks are considered to be low.</p> |
| 3. Housing, Infrastructure and Urban Development | | |
| 3.1 Residential Zones | <p>The planning proposal must:</p> <ul style="list-style-type: none"> • Broaden the choice of housing types and locations. • Make efficient use of existing infrastructure and services. • Reduce consumption of land. • Housing of good design. • Residential development not permitted until land is adequately serviced. • Not contain provisions that will reduce residential density. | <p>Consistent</p> <ul style="list-style-type: none"> • <u>Item 6 – 10 Eden Street, Girards Hill:</u> this item involves the rezoning of part of this land parcel from RE1 Public Recreation to R1 General Residential at the request of the landowner to build a shed to be used ancillary to the existing dwelling on the site. Although the proposal is rezoning part of the site to a residential zone, which enables various types of residential developments, the size (approx. 360m²) limits the potential options and scale of any future residential development on the site. • Existing road infrastructure and services are available to support the future development of the site. |
| 3.2 Caravan Parks and Manufactured Home Estates | <ul style="list-style-type: none"> • Retain provisions that permit development of caravan park. • Appropriate zone for existing caravan parks. | N/A |
| 3.3 Home Occupations | The Planning Proposal must permit home occupations in dwelling houses without development consent. | <p>Consistent</p> <p>The general amendments planning proposal does not change the permissibility of home occupations.</p> |
| 3.4 Integrating Land Use and Transport | <p>A Planning Proposal must locate zones for urban purposes and include provisions that give effect to:</p> <ul style="list-style-type: none"> • Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and • The Right Place for Business and Services – Planning Policy (DUAP 2001) | Consistent |

| Ministerial Directions | Requirements | Compliance |
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| 3.5 Development Near Regulated Airports and Defence Airfields | <p>A planning proposal in the vicinity of a licensed aerodrome is to be:</p> <ul style="list-style-type: none"> • Referred to Civil Aviation Safety Authority and the lessee of the aerodrome. • Take into consideration the Obstacle Limitation Surface (OLS). • Prepare standards such as height if land is affected by OLS. • Obtain permission from CASA where the planning proposal allows, as permissible with consent, development that encroaches above the OLS. Permission must be obtained prior to public exhibition. • Not rezone land for various listed noise sensitive land uses where the ANEF exceeds specified thresholds. | <p>Consistent</p> <p>The planning proposal involves three sites at Union Street, South Lismore that are within the YLIS.</p> <p>Each site does not have a height of building control and no changes are being made to these planning controls.</p> <p>On this basis it has been determined that some of the sites are “near” the Lismore Airport. The planning proposal will be referred to the Lismore Airport operator for comment.</p> |
| 3.6 Shooting Ranges | <p>(4) A planning proposal must not seek to rezone land adjacent to and/or adjoining an existing shooting range that has the effect of:</p> <p>(a) permitting more intensive land uses than those which are permitted under the existing zone: or</p> <p>(b) permitting land uses that are incompatible with the noise emitted by the existing shooting range.</p> | <p>Consistent</p> <p>The proposed amendments are housekeeping only and do not permit more intensive or incompatible land uses on land adjoining the shooting range at 49 Rifle Range Road, Tuncester.</p> <p>Lismore DCP Chapter 11 Buffer Areas includes buffer requirements for the Tuncester shooting range.</p> |
| 3.7 Reduction in non-hosted short term rental accommodation period | N/A | N/A |
| 4. Hazard and Risk | | |
| 4.1 Acid Sulfate Soils | <p>(6) A Council shall not prepare a draft LEP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the Council has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p> | <p>Consistent</p> <ul style="list-style-type: none"> • Each of the sites that this Planning Proposal relates to are not mapped in the Lismore LEP 2012 Acid Sulfate Soils Planning map. |
| 4.2 Mine Subsidence and Unstable Land | <ul style="list-style-type: none"> • Applies to mine subsidence areas. • Applies to areas identified as unstable. | <p>Consistent</p> <ul style="list-style-type: none"> • <u>Item 11 – 15 Holland Street, Goonellabah</u>: this site is mapped as ‘Hilly’ with of slope varying between 20-33%. |

| Ministerial Directions | Requirements | Compliance |
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| | <ul style="list-style-type: none"> A planning proposal must not permit development on unstable land. | <p>The proposed Zone E2 Environmental Conservation will significantly restrict the development potential of the land.</p> <ul style="list-style-type: none"> This Planning Proposal does not impact land with any areas of mine subsidence. |
| 4.3 Flood Prone Land | <p>The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. (b) to ensure that the provisions of a local environmental plan that apply to flood prone land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.</p> | <p>Consistent</p> <p><u>Item 1 – Industrial zones:</u> parts of the areas zoned industrial in Lismore (North and South Lismore) are flood prone. The LEP and DCP provide robust planning controls to mitigate against adverse impacts. The Planning Proposal does not permit more intensive land uses in industrial zones.</p> <p><u>Item 3 – 7 Engine Street, South Lismore:</u> this land is flood prone. The Planning Proposal does not increase the development potential of the land, it only relates to its Heritage status.</p> <p><u>Items 7, 8 & 9 - Union Street, South Lismore:</u> these land parcels are flood prone. The rezoning of these areas will not increase the development potential due to the small land areas involved and the existing robust planning controls in the LEP and the DCP.</p> |
| 4.4 Planning for Bushfire Protection | <p>A Planning Proposal in bush fire prone land:</p> <ul style="list-style-type: none"> Is to be referred to the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination prior to community consultation. Have regard to 'Planning for Bush Fire Protection 2006'. Restrict inappropriate development from hazardous areas. Ensure bush fire hazard reduction is not prohibited within the APZ. | <p>Consistent</p> <ul style="list-style-type: none"> Council is required under section 117 of the <i>EP&A Act 1979</i>, Ministerial Direction 4.4 to consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination and take into account any comments made. Bush fire hazard reduction authorised under the <i>Rural Fires Act 1997</i> can be carried out on any land without development consent. <p>A number of the sites subject to this Planning Proposal are mapped as bushfire prone land. The Planning Proposal is not aimed at facilitating new development or increasing densities in residential areas so it is not expected to increase bushfire risk to the population.</p> |
| 5. Regional Planning | | |
| 5.1 Regional Strategies | N/A | N/A |
| 5.2 Sydney Drinking Water Catchments | N/A | N/A |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | <ul style="list-style-type: none"> The Planning Proposal must not re-zone land mapped as State or regionally significant farmland for urban or rural residential purposes. | <p>Justified inconsistency</p> <p>The only relevant site is discussed below.</p> <p><u>Item 4 – 450 Alphadale Road, Tregeagle:</u> the Planning Proposal is not proposing to rezone this site. The land is within Zone RU1 Primary Production. The inclusion of the site as a heritage item will have no impact on the potential for surrounding RU1 land to be used for primary production as the Church is an established land use and building (built in 1899) on a small lot of 1,000m².</p> <p>The land is mapped as State Significant Farmland and is surrounded by land ostensibly used for</p> |

| Ministerial Directions | Requirements | Compliance |
|--|--|---|
| | | primary production. The heritage listing of the site is not expected to increase the potential for land use conflict with adjoining farming properties. |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | N/A | N/A |
| 5.9 North West Rail Link Corridor Strategy | N/A | N/A |
| 5.10 Implementation of Regional Plans | <ul style="list-style-type: none"> The planning proposal must be consistent with the North Coast Regional Plan 2036. | Consistent |
| 5.11 Development of Aboriginal Land Council land | N/A | N/A |
| 6. Local Plan Making | | |
| 6.1 Approval and Referral Requirements | <ul style="list-style-type: none"> A planning proposal should not contain provisions requiring concurrence, consultation or referral of a Minister or public authority without approval from the relevant Minister or public authority; and the Director General of the Department of Planning & Environment. Not identify development as designated development unless justified. | <p>Consistent</p> <p>There are no referral or concurrence requirements in the planning proposal.</p> <p>The proposal does not identify development as designated development.</p> |
| 6.2 Reserving Land for Public Purposes | <ul style="list-style-type: none"> A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without approval of the relevant public authority and the Director General of DP&E. | <p>Consistent</p> <p><u>Items 7, 8 & 9 - Union Street, South Lismore:</u> these sites involve rezoning land to and from Zone RE1 Public Recreation following a boundary re-adjustment between the Mills Transport site and Council owned Riverview Park. The land parcels are all small and have no discernible impact on the land areas used for public purposes.</p> |
| 6.3 Site Specific Provisions | <ul style="list-style-type: none"> A planning proposal to allow a particular land use (residential development) must rezone the site to an existing zone already applying to the LEP that allows the land use, without additional development standards to those already in use in that zone. | N/A |
| 7. Metropolitan Planning | | |
| 7.1 Metropolitan Strategy | N/A | N/A |