



IRF23/3264

Gateway determination report – PP-2022-3907

Rezone and amend associated development standards at 1055 and 1055A, Bruxner Highway, Goonellabah 2480 (Lot 42 DP 868366 and Lot 1 DP 957677)

December 23

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

See Attachment A – Relevant Documents

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Lismore
PPA	Lismore City Council
NAME	Bruxner Highway, Goonellabah (350 dwellings, 4336 jobs)
NUMBER	PP-2022-3907
LEP TO BE AMENDED	Lismore Local Environmental Plan 2012
ADDRESS	1055 and 1055A Bruxner Highway, Goonellabah 2480
DESCRIPTION	Part of Lot 42 DP 868366 Lot 1 DP 957677
RECEIVED	4/12/2023
FILE NO.	IRF23/3264
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the Lismore LEP 2012 to facilitate the future development of the land for residential, mixed use and industrial land to meet the needs of the Lismore community.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Lismore LEP 2012 per the changes below:

Table 3 Current and proposed controls

Location	Control	Current	Proposed
Part of Lot 42 (North of Tucki Tucki Creek)	Zone	RU1 Primary Production	Part R1 General Residential Part MU1 Mixed Use Part RE1 Public

			Recreation
	Maximum height of the building	N/A	Part 8.5m (R1 zone) Part 13m (MU1 zone)
	Minimum lot size	40ha	Part 400m ² (R1 zone) Part 300m ² (MU1 zone)
Lot 1 (South of Tucki Tucki Creek)	Zone	RU1 Primary Production	Part MU1 Mixed Use Part E4 General Industrial Part RE1 Public Recreation
	Maximum height of building	N/A	Part 13m (MU1 zone)
	Minimum lot size	40ha	Part 300m ² (MU1 zone) Part 1500m ² (E4 zone)

The northern part of Lot 42 that is not affected by the rezoning will remain zoned RU1 Primary Production with no changes to the minimum lot size or building height.

The planning proposal is a map only amendment to be implemented with changes to the following map sheets:

- Land Zoning (LZN_005 & LZN_006),
- Lot Size (LSZ_005 and LSZ_006),
- Height of Building (HOB_005 and HOB_006).

Given the nature and scale of the proposal (approximately 75ha with a mixture of residential, employment and mix use development), it is however considered appropriate that the amendment is supported by further written controls in the LEP to appropriately guide servicing of the site and future development. This is discussed in detail in detail in following sections of this report.

1.4 Site description and surrounding area

Location

The site is situated approximately 8km from the Lismore CBD and 3km to the Goonellabah shopping precinct on the eastern fringe of the established urban area of Goonellabah (**Figure 1**). The planning area is an irregular shape, occupying approximately 75ha.

Planning Area

The northern part of Lot 42 has not been included in the planning area due to its existing separation by the Bruxner Highway and to also allow for the potential future realignment of the Bruxner Highway (**Figure 1 and Figure 7**).

Geographical Context

Residential land adjoins part of the western boundary of Lot 42 with agricultural land comprising a macadamia farm to the east. The north of Lot 42 adjoins the Bruxner Highway and the south of Lot 42 is traversed by Tucki Tucki Creek (**Figure 2**).

Lot 1 is located to the south of Lot 42 and Tucki Tucki Creek is surrounded by agricultural land except for a small area of R5 Large Lot Residential development to the south west.

Land Characteristics and Constraints

The planning area is currently used as agricultural land and is identified as state significant farmland (SSF) under the Department's Northern Rivers Farmland Protection Project. Land to the north, east and south is also identified as SSF (**Figure 3**).

The submitted Geotechnical Assessment indicates that undulating rolling hills typify the site. The majority of the site has a slope of 10-20%, however there are areas with a slope of 2-5%. Generally, Lot 42 falls away to the south toward Tucki Tucki Creek and Lot 1 climbs to the south from the adjoining boundary with Lot 42 and Tucki Tucki Creek.

Part of the site is identified as bushfire prone (**Figure 4**) and Tucki Tucki Creek which traverses the site is identified as potential high environmental value land (**Figure 5**).

The site is not identified within the Flood Planning Area, however, is identified as being affected by overland stormwater flows and creek swelling. The proposal indicates that creek swelling could occur to a level of 140m AHD. Land below 140m AHD plus freeboard is proposed to be zoned RE1 zone either side of Tucki Tucki Creek.

Bushfire, high environmental value of the land and flooding are all further discussed in following sections of this report.

Existing Services

The site does not currently have access to sewer or water services.

Road access to the planning area is currently achieved from the Bruxner Highway, however alternate arrangements from Oliver Ave are proposed should the site be rezoned.

Proposed access and servicing is discussed in greater detail in following sections of this report.

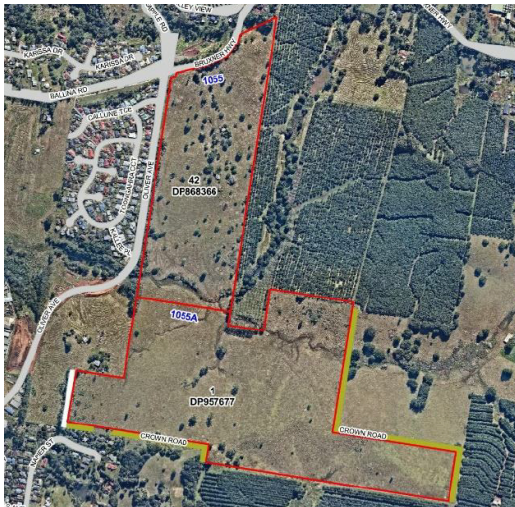


Figure 1 Subject site (source: Council Planning Proposal)

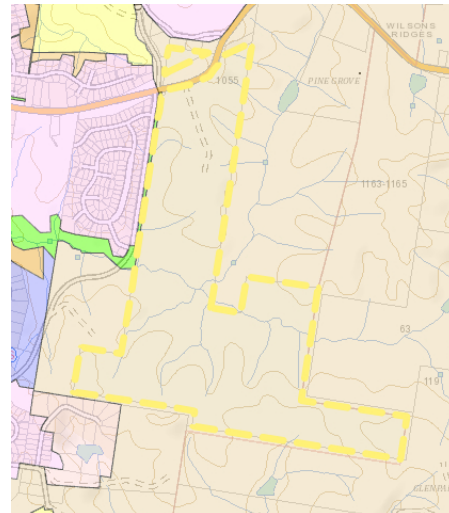


Figure 2 Site and current land zoning (source: NSW Spatial Viewer)



Figure 3 State significant farmland (source: Northern Rivers Farmland Protection Project)

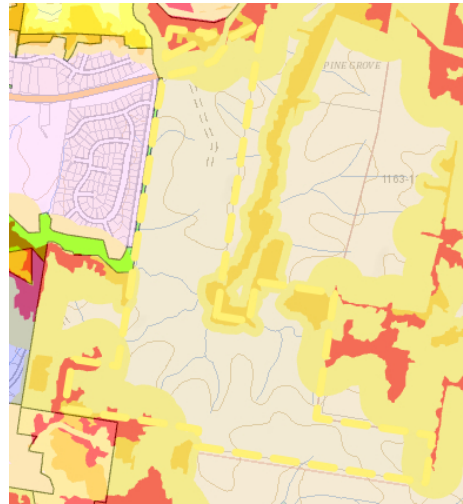


Figure 4 Bushfire prone land (source: NSW Spatial Viewer)

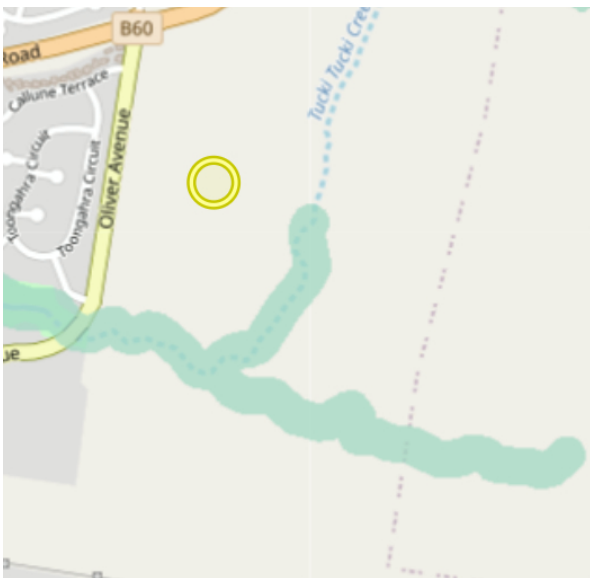


Figure 5 Potential High environmental value land (source: North Coast Regional Plan 2041)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning, Lot Size and Height of Building maps (**Figures 6-11**).

The maps that have been prepared are suitable for exhibition. Technical LEP maps that meet the Department's GIS requirements will need to be prepared by Council at the finalisation stage.

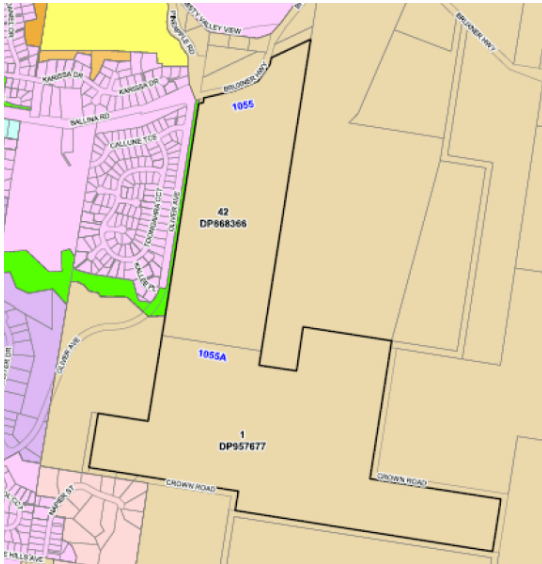


Figure 6 Current zoning map

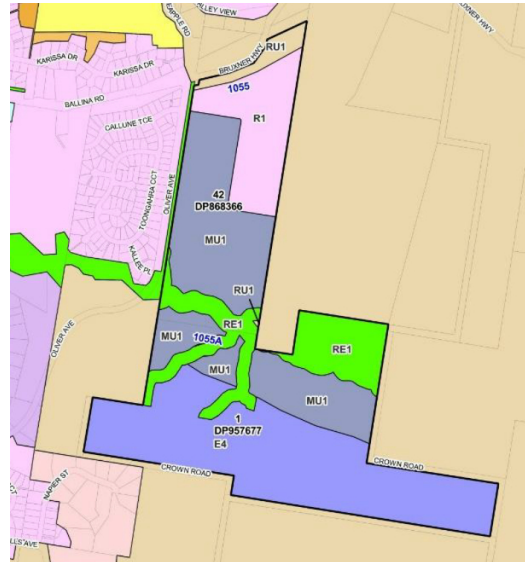


Figure 7 Proposed zoning map

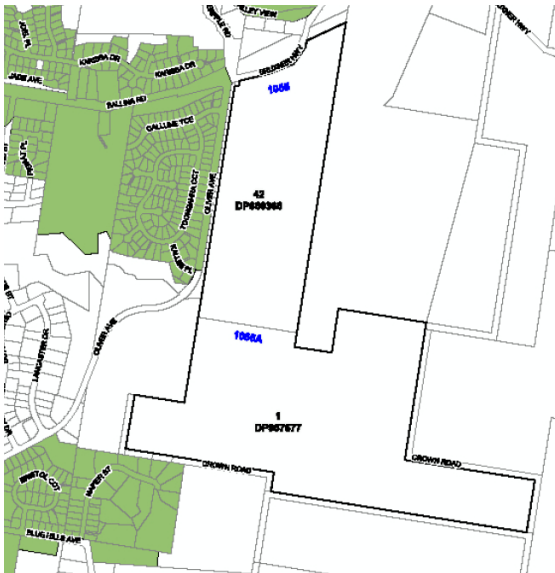


Figure 8 Current height of building map

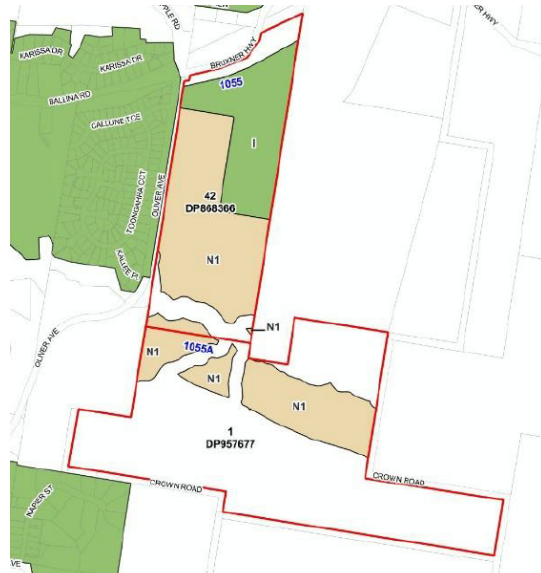


Figure 9 Proposed height of building map

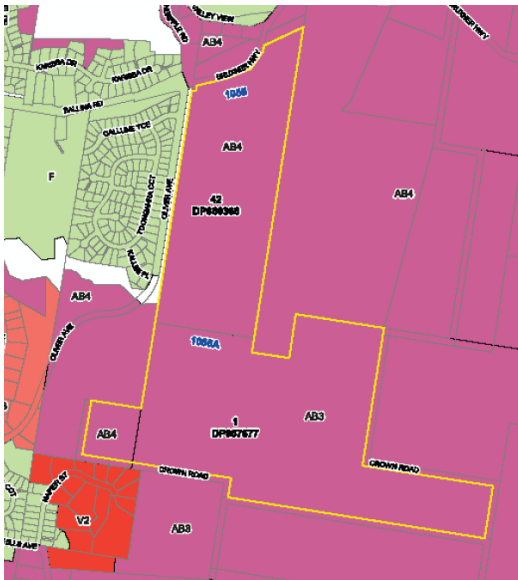


Figure 10 Current minimum lot size map

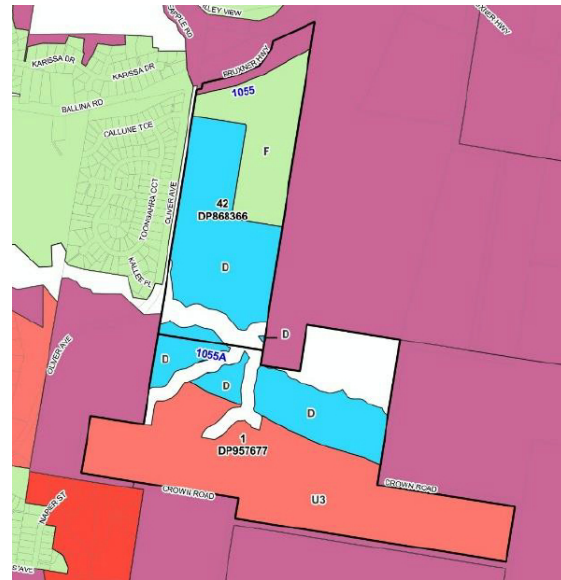


Figure 11 Proposed minimum lot size map

1.6 Background

The flood event occurring on 28 February 2022 in Lismore was the highest flood on record, reaching 14.4m. The following event in March 2022 reached 11.4m.

In March 2022, the NSW Government established an Independent Flood Inquiry in response to the 2022 flood events in Lismore and across the State.

The Inquiry released 28 recommendations across a broad range of areas, including land management and planning. The NSW Flood Inquiry encouraged a risk-based approach to flooding be applied and specifically recommends that a revision of all flood planning level calculations in the state's high-risk catchments be undertaken.

The Lismore LGA is within an identified high-risk catchment under the 2022 Flood Inquiry and will be subject to revised flood planning level (FPL) calculations to be undertaken by the NSW Reconstruction Authority.

In response to the flood events and the outcomes of the inquiry, Council has been undertaking a review of future urban release areas to ensure future growth and relocations from flood affected areas are directed to flood free land.

Council prepared the Lismore Growth and Realignment Strategy 2022 (LGRS), which was endorsed by the Department in June 2023. An Addendum to the Strategy was submitted to the Department in August 2023, to provide further justification relating to the industrial land within the planning area, which was subsequently endorsed in September 2023.

The endorsement letters provided to Council identified specific requirements to be addressed by Council as part of any future planning work within the planning area. The specific requirements of the letters relating to the endorsement are discussed under section 3.3 of this report.

2 Need for the planning proposal

The planning proposal is the result of an endorsed local strategy (the Lismore Growth and Realignment Strategy 2022) and the draft Resilient Lands Strategy prepared by the NSW Reconstruction Authority).

The strategies identify that the land is needed to provide flood free residential and employment land in response to the 2022 flood events. This land will cater for new development and the relocation of existing development in flood affected areas.

A planning proposal to rezone the land is the only means of achieving the objectives or intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The proposal is considered to be consistent with the requirements of the North Coast Regional Plan 2041, with the following exceptions outlined in Table 4.

It is noted that the planning proposal references the North Coast Regional Plan 2036. Prior to consultation the proposal should be updated to address the North Coast Regional Plan 2041.

Regional Plan Objectives	Justification
<p>Objective 8</p> <p>Support the productivity of agricultural land</p>	<p>Objective 8 outlines that local planning should protect and maintain agricultural productive capacity in the region by directing urban, rural residential and other incompatible development away from important farmland.</p> <p>The NCRP 2041 also recognises that in some instances it may be appropriate for centres to expand onto important farmland if the land has a lower agricultural capability and other suitable land is not available.</p> <p>In this instance the proposal is considered to be consistent with the overall intent of the NCRP 2041, and its urban growth area variation principles, and in particular the use of important farmland for future urban development as:</p> <ul style="list-style-type: none"> • An Agricultural Assessment has been prepared for the planning area, which found that much of the site constitutes Class 4 and 5 land and is unsuitable for most agricultural enterprises. • A LUCRA has been prepared confirming that rezoning will have minimal impact on the adjoining agricultural activities and that adequate internal buffers can be accommodated in the proposal. • The site directly adjoins existing urban development and services. • It will provide important flood free land for future housing and jobs to help Lismore respond to the 2022 flood crisis. • It is in accordance with a Department approved local strategy and will help Council achieve movement towards the NCRP 2041 40% target of infill / small lot housing by 2036 with its mixed use and medium density areas. <p>NSW Department of Primary Industries should be consulted to review the findings of these reports and provide comments on suitability in relation to the use of important farmland in this instance.</p>
<p>Objective 11</p> <p>Support cities and centres and coordinate the supply of well-located employment land</p>	<p>Objective 11 indicates that new commercial precincts, outside of existing centres should be of an appropriate size and scale relative to the area they will be servicing. Proposals are to demonstrate how they will benefit the community and the regional economy. Proposals should articulate how they will:</p> <ul style="list-style-type: none"> • Respond to retail supply and demand, • Respond to innovations in the retail sector, • Maximise the use of existing infrastructure (including public transport and community facilities) commensurate with the scale

of the proposal, and

- Enhance the value of the public realm.

The proposal indicates that the intention is to provide a component of commercial land on the site of approximately 3.26ha. This represents a new commercial precinct outside an existing centre.

The Economic Benefits Assessment that supports the proposal has not addressed in detail the matters required by Objective 11.

While it is recognised that the proposal is likely to be consistent with Objective 11 due to the small size of the proposed commercial area, and as it is responding to the flood events of 2022 (as there is a need for flood affected businesses to relocate and for services to be provided for new housing), it would be beneficial if the Economic Benefits Assessment was updated prior to consultation to address the requirements of the North Coast Regional Plan 2041 in more detail. A condition to this effect has been included on the Gateway determination.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>The proposal is inconsistent with the LSPS. Due to the flood events of 2022, the current LSPS is considered to contain components that are no longer fit for purpose or able to ensure adequate supply of housing and employment lands. Council has been advised to update the LSPS to reflect the endorsed LGRS. The inconsistency of the proposal with the LSPS is therefore considered of minor significance.</p>
Lismore Growth and Realignment Strategy 2022	<p>The proposal is consistent with the Lismore Growth and Realignment Strategy as it will facilitate the future development of land within an agreed location to support future urban uses and deliver housing and employment land.</p> <p>The Department's LGRS approval letter dated 11 September 2023 notes:</p> <p>In moving forward with the Addendum, Council should ensure that:</p> <ul style="list-style-type: none"> • any future planning proposals are supported by an implementation and infrastructure servicing plan (including access), along with detailed studies and assessment of site-specific development constraints such as potential high environmental value, land use conflict with adjoining agricultural land and PMF flood levels, velocity, and flood planning levels, to confirm consistency with the North Coast Regional Plan 2041, relevant SEPPs and section 9.1 Directions and the suitability of the land for development. <p>Additionally, in the approval letter dated 22 June 2023, the Department encouraged the following, which are relevant to the proposal:</p> <ul style="list-style-type: none"> • 40 per cent of new dwellings being delivered across the entire LGA by 2036 are in the form of multi dwellings/small lots (less than 400m²) housing, consistent with the requirements of the North Coast Regional Plan 2041, and • future planning proposals are informed by infrastructure servicing plans, along with supporting studies and assessment of site-specific development

constraints.

The current planning proposal is supported by:

- water and sewer studies which confirm the site can be serviced, subject to upgrades (see further discussion under section 4.3)
- detailed studies and assessment of site-specific development constraints and access requirements.

Additionally, Council is seeking an MU1 mixed use zone over part of the site to encourage appropriate density and variation in lot typologies and housing mix.

Consultation with relevant agencies will seek to confirm the findings of the detailed studies and assessment and suitability of the proposal.

It is noted that Council has not articulated a specific staging plan for the release area, as suggested in the letter. Council has outlined staging is largely underpinned by infrastructure upgrades to determine feasibility and timing of release. This is discussed in further detail under section 4.3.

The flood planning level has not yet been reviewed in Lismore, so the strategy and addendum do not require an update at this stage, pursuant to the requirements of the letter. The proposal is supported however by confirmation that development will occur above the 140m AHD level for creek swelling in Tucki Tucki Creek.

3.3 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with aa relevant section 9.1 Directions except those discussed below.

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Unresolved	As discussed above, the proposal is considered to be consistent with the NCRP 2041 subject to further detail being added to the Economic Benefits Assessment to confirm the proposal is satisfactory in relation to Objective 11. Until this occurs the consistency of the proposal with this direction remains unresolved.
3.1 Conservation Zones	Unresolved	<p>The planning proposal is inconsistent with this direction as it does not apply a conservation zone or other provisions to facilitate the protection and conservation of environmentally sensitive areas that have been identified across the site including:</p> <ul style="list-style-type: none"> - along Tucki Tucki Creek; and - a potential loss of approximately 260m² of disturbed rainforest along the western boundary fence along with scattered paddock trees. <p>The inconsistency of the proposal with this direction is considered likely to be of minor significance as any loss will be adequately compensated by the retention and rehabilitation of Tucki Tucki Creek, as well as the incorporation of buffers and riparian corridor zones into a RE1</p>

		<p>Public Recreation zone that will become owned and managed by Council. The assessment indicates overall this will result in a net gain of native vegetation and habitat on the site. Biodiversity offsetting if required an also be undertaken at the DA stage if required.</p> <p>Council has however identified that a survey is still required for Hairy Joint Grass. The Ecological Assessment should be updated to address this issue prior to consultation.</p> <p>Until the Ecological Assessment has been updated and reviewed by the NSW Biodiversity and Conservation Division it is considered that the consistency of the proposal with this direction remains unresolved.</p>
3.2 Heritage Conservation	Unresolved	<p>The planning proposal is inconsistent with this direction as the supporting Aboriginal and Historic Heritage Due Diligence Assessment study found that:</p> <ul style="list-style-type: none"> • Aboriginal objects, or areas where Aboriginal objects are very likely to occur beneath the ground surface, were identified within the site; and • the site is of moderate Aboriginal archaeological sensitivity and moderate archaeological potential. <p>and the proposal does not contain provisions that facilitate the conservation of items, areas, objects and places of indigenous heritage significance.</p> <p>The study recommends where possible, the 5 identified Potential Archaeological Deposits (PADs) should be avoided to prevent harm to concealed Aboriginal objects.</p> <p>The study indicated that the overall guiding principle for cultural heritage management is that where possible Aboriginal sites should be avoided and conserved. Avoidance can be achieved through measures such as design change, buffering and exclusion zones, construction environmental management plans which include Aboriginal heritage and Cultural heritage awareness training.</p> <p>It does not appear that the proposal has made any accommodation for these PADs.</p> <p>It is noted that Council has already referred the Cultural Heritage Assessment to the Ngulingah Local Aboriginal Land Council for a Local Knowledge Holder to review. It is understood that the LALC raised no objection to the proposal and recommended that Council place a condition on any development approval to ensure that the</p>

		<p>developer contract or employ an Aboriginal Cultural Heritage Officer that has experience in Aboriginal Cultural Heritage Surveys to observe and identify any artifacts that may be unearthed in the earth works stage.</p> <p>It is also noted however that the report recommends that if the PADs aren't avoided that archaeological test excavation be undertaken to determine if the archaeological deposit is present, the nature and extent, and recommendations for ongoing management. It is understood that this is proposed to be done at the DA stage.</p> <p>Until the report and its conclusions and recommendations are reviewed by Heritage NSW and the Ngulingah Local Aboriginal Land Council again to confirm they are appropriate, it is considered the consistency with this direction remains unresolved.</p>
4.1 Flooding	Justifiably Inconsistent	<p>This proposal is inconsistent with this direction as it will rezone land affected by creek swelling to RE1 Public Recreation and potentially increase the development potential of the land.</p> <p>The proposal confirms that creek swelling could occur to a level of 140m AHD and that all residential lots are to be situated above the 146m AHD contour line, and that a RE1 zone is proposed on either side of Tucki Tucki Creek.</p> <p>The provisions of the proposal that are inconsistent are considered minor as flooding on the site is limited to localised creek swelling and can be appropriately managed by the identified controls above and noting that the RE1 Zone will be owned and managed by Council.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>The proposal is potentially inconsistent with this direction as the planning area is partially mapped as bushfire prone land.</p> <p>While the accompanying bushfire report confirms that the proposal can satisfy the requirements of Planning for Bushfire Protection 2019 with minimal environmental impacts and suitable asset protection zones, until referral post Gateway is undertaken with the NSW Rural Fire Service, consistency with this direction cannot be determined.</p>
5.2 Reserving land for Public Purposes	Justifiably Inconsistent	<p>The proposal is inconsistent with this direction as Council proposes to increase the amount of land to be zoned RE1 Public Recreation in the Lismore LGA without the approval of the Secretary.</p> <p>The inconsistency is considered to be of minor significance as it only applies to a small amount of</p>

		land, reflects the future public recreation purpose of the land and Council will become the owner and manager of the land.
8.1 Mining, Petroleum Production and Extractive Industries	Unresolved	<p>The proposal is inconsistent with this direction as the rezoning of land from rural will limit mining and extractive industries.</p> <p>The Direction requires that the Secretary of the Department of Primary Industries (DPI) shall be consulted and provided 40 days to provide any objection to the terms of the planning proposal.</p> <p>The consistency of the proposal with this Direction is therefore considered to be unresolved until this consultation has been undertaken.</p> <p>It is understood that Mining, Exploration and Geoscience (MEG) is now the responsible body for mining and extractive industries in NSW. MEG currently sits within the portfolio of Regional NSW.</p> <p>As such, consultation is recommended to be undertaken with both DPI and MEG to satisfy the inconsistency.</p>
9.1 Rural Zones	Justifiably inconsistent	<p>The proposal is inconsistent with this direction as it will rezone rural land to a residential, employment or mixed-use zone.</p> <p>The inconsistency is justified as the proposal is in accordance with Council's Department approved Lismore Growth and Realignment Strategy 2022.</p>
9.2 Rural Lands	Justifiably Inconsistent	<p>The proposal is inconsistent with this direction as the proposal will affect land within an existing rural zone and does not satisfy all the principles of the direction such as promoting opportunities in agricultural investment.</p> <p>The inconsistency is justified as the proposal is in accordance with Council's Department approved Lismore Growth and Realignment Strategy 2022.</p>
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Unresolved	<p>The proposal is inconsistent with this direction as it seeks to rezone State Significant Farmland for urban purposes.</p> <p>It is considered likely that the inconsistency of the proposal with this direction is satisfactory and in accordance with the terms of the direction for the reasons discussed above in relation to compliance with the NCRP 2041 and its urban growth boundary variation principles.</p> <p>It is however considered appropriate that the consistency with this direction remain unresolved until DPI Agriculture have reviewed the proposal and confirmed they raise no objection.</p>

3.4 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable SEPPs. It is considered likely that a number of SEPPs will be relevant to future development stages that will be facilitated by this proposal.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Bushfire	<p>The accompanying bushfire report confirms that the requirements identified in Planning for Bushfire Protection 2019 can be satisfied with minimal environmental impacts and suitable asset protection zones can be achieved.</p> <p>Consultation is required with NSW RFS to confirm that the findings of the report are satisfactory.</p>
Flooding	<p>The proposal indicates that while the land is outside the flood planning area, that creek swelling could occur to a level of 140m AHD and that all residential lots are to be situated above the 146m AHD contour line and that land affected by the creek swelling will be contained within the proposed RE1 Public Recreation Zone. No adverse impact is therefore anticipated in regard to this issue. It is however considered appropriate that the proposal be referred to BCD Flooding and the NSW Reconstruction Authority for review and comment to confirm that the proposal is satisfactory.</p>
Traffic	<p>The proposal is likely to generate additional traffic impacts on the existing localised road network and the Bruxner Highway. The impact to the Bruxner Highway is considered in further detail under section 4.3.</p> <p>The Traffic and Transport Study concludes that the subject site is suitable for the proposed rezoning subject to staged upgrades to Oliver Ave and the Bruxner Hwy roundabout.</p> <p>Notwithstanding, the proposal is not supported by a staging plan. Council has indicated that staging is linked to infrastructure upgrades to determine feasibility and timing of release. It is therefore considered appropriate the proposal be referred to Transport for NSW for review and comment to confirm that the proposal is satisfactory.</p> <p>This is discussed in greater detail under section 4.3.</p>
Access	<p>No access is proposed from the Bruxner Highway. Site access will be facilitated to the residential/mixed use component on Lot 42 from Oliver Avenue through the construction of new intersections.</p> <p>It is understood that to facilitate this access, Council as roads authority under the <i>Roads Act 1993</i> has dedicated community land held by it along the western boundary of the site adjoining Oliver Ave as public road.</p> <p>According to the Council Report (dated 12 September 2023), community land can</p>

	<p>be dedicated as public road in accordance with section 47F of the Local Government Act 1993 for the purpose of widening an existing public road.</p> <p>Council argued that the proposed turning lane and road access meets this criterion as it involves widening the existing public road.</p> <p>At the 12 September Council meeting, Councillors resolved to dedicate a strip of Council owned land (being Lot 299 in DP 1058607) adjacent to the site as public road to enable future access into this proposal site.</p> <p>On Friday 3 November 2023, Lot 299 in DP 1058607 was gazetted as public road in accordance with the Council resolution.</p> <p>It is understood that Council is still in the process of negotiating access arrangements to the employment land, which is ideally to be achieved through adjoining Lot 1 DP 1285218. Council is in ongoing discussions with the landowner.</p> <p>Alternatively, Council have identified alternate arrangements should an outcome not be able to be negotiated in a timely manner, which includes a bridge over Tucki Tucki Creek at landowners cost to link Lot 1 to Oliver Avenue or negotiate with a third-party landowner/s with the aim of enabling access from Oliver Avenue directly to Lot 1.</p> <p>This is discussed in further detail under section 4.3.</p>
Noise	<p>The proposal identifies that noise walls will be required at the northern boundary to minimise issues with the Bruxner Highway and on part of the southern boundary to limit impacts from the proposed employments lands to an existing small rural residential estate. It is considered appropriate that consultation be undertaken with the community and agencies to determine the appropriateness of these measures.</p>
Ecological value	<p>The proposal seeks to include all the land identified under the NCRP 2041 as potential high environmental value land and on the NSW Biodiversity Values Map within a riparian corridor along Tucki Tucki Creek to be zoned RE1 Public Recreation for protection and use as public open space.</p> <p>The proposal does however note that:</p> <ul style="list-style-type: none"> - 260m² of disturbed rainforest along the western boundary fence will potentially be lost along with scattered paddock trees; - no survey work has been yet undertaken to identify Hairy Joint Grass on the site; and - while the land is identified within the Lismore Comprehensive Koala Plan of Management (CKPoM), that the current mapping of primary koala habitat is incorrect and field investigations found only minor koala activity under one tree at the south of the site. <p>It is therefore considered appropriate that the proposal be further reviewed by BCD to confirm its suitability.</p>
Contaminated Land	<p>The studies accompanying the proposal found that the land was suitable for the rezoning to proceed and the intended future uses subject to further work at the DA stage for two small Areas of Concern 1 and 2 (former house / farm building locations). These works include:</p> <ul style="list-style-type: none"> • Prior to the submission of a development application for development in the area shown as AoC1 and AoC2, a Detailed Site Investigation is to be prepared by a suitably qualified environmental consultant to further delineate the potential contaminants of concern identified in and around the existing dwellings and associated structures. • Following the preparation of the Detailed Site Investigation in 1 above, a

Remedial Action Plan is to be prepared providing details on required remediation and validation of lead-impacted soil and other identified potential contaminants of concern.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Aboriginal Cultural Heritage	<p>An Aboriginal and Historic Heritage Due Diligence Assessment has been prepared to support the proposal. The study found that:</p> <ul style="list-style-type: none"> Aboriginal objects, or areas where Aboriginal objects are very likely to occur beneath the ground surface, were identified within the site, and the site is of moderate Aboriginal archaeological sensitivity and moderate archaeological potential. <p>This study identifies five potential archaeological deposits (PADs) where cultural items may be present. These PADs are scattered throughout the site (Figure 12). The study also identifies that the site contains a number of sensitive landscape features, including creeks, drainage lines, ridge lines and ridge tops, however, concludes that disturbed land occurs partially within the site as a result of:</p> <ul style="list-style-type: none"> construction of rural infrastructure (such as dams and fences), clearing of vegetation, construction of buildings and the erection of other structures, substantial grazing involving the construction of rural infrastructure, construction of earthworks associated with anything referred to above. <p>Notwithstanding, the study indicated that the overall guiding principle for cultural heritage management is that where possible Aboriginal sites should be avoided and conserved. Avoidance can be achieved through measures such as design change, buffering and exclusion zones, construction environmental management plans which include Aboriginal heritage and Cultural heritage awareness training.</p> <p>The study recommended that where possible, the identified PADs should be avoided to prevent harm to concealed Aboriginal objects. Where avoidance is not possible, it is recommended that archaeological test excavation if recommended to determine if the archaeological deposit is present and the nature and extent as well as recommendations for ongoing management.</p> <p>As discussed above previously, it is considered appropriate that the findings of the study be reviewed by both Heritage NSW and the Ngulingah Local Aboriginal Land Council to confirm the suitability of the proposal.</p>

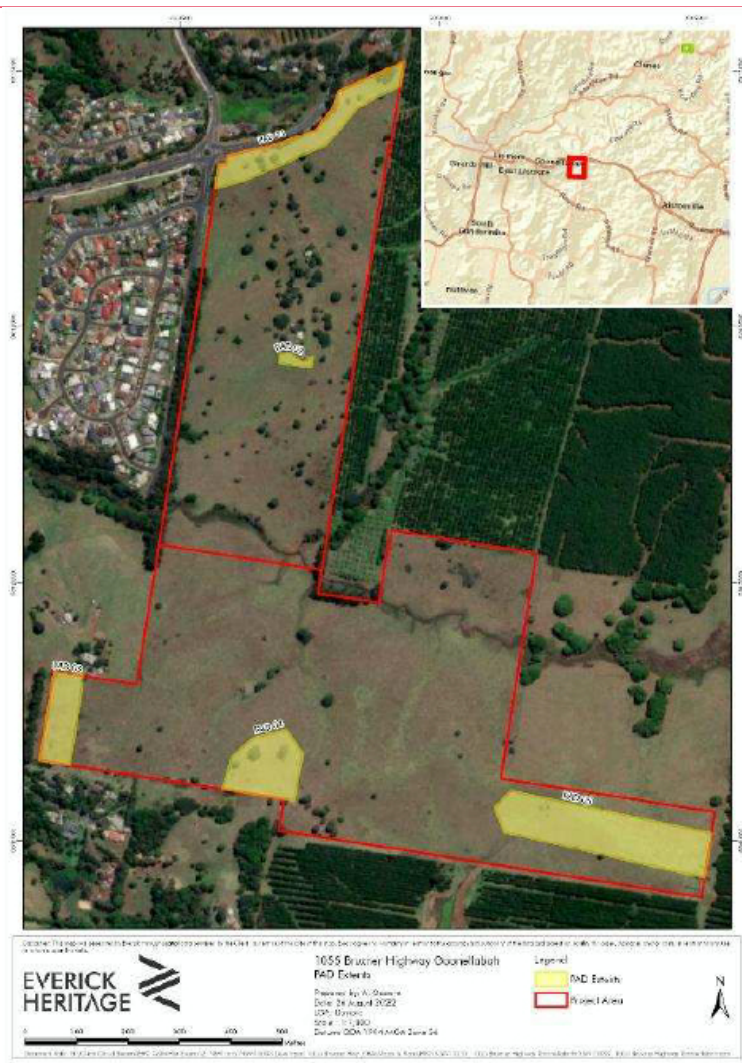


Figure 12 PAD extents (Source: Aboriginal and Historic Heritage Due Diligence Assessment)

State Significant Farmland

The proposal is located upon land that is identified as State Significant Farmland and this was a matter considered by the Department when reviewing the Lismore Growth and Realignment Strategy 2022.

DPI Agriculture were consulted at the time of both the strategy approval and addendum approval. DPI Agriculture raised no objection but did indicate that a LUCRA should be prepared to support a future planning proposal, to identify potential impacts to surrounding agricultural lands and identify appropriate measures to mitigate impacts. Additionally, DPI Agriculture identified that buffers should be determined in conjunction with a LUCRA and informed by consultation with neighbouring landowners to inform the mitigation measures and size of buffers.

It is considered appropriate that DPI Agriculture review the planning proposal and supporting documents to provide comments specific to this stage and to confirm the suitability of the proposal proceeding.

Provision of residential and employment land

It is considered that the proposal will have a net positive benefit in terms of the delivery of much need flood free urban land to support the community post the 2022 flood events.

Impact upon existing

The proposal has not articulated the potential impact of the rezoning on existing employment areas. It is understood that much of the existing employment lands are

employment areas	<p>impacted by flooding and Council sees the need to provide land to allow for the relocation of some commercial businesses outside of flood prone land to maintain long term investment within Lismore.</p> <p>It is not clear however within the submitted documents what role and function the proposed commercial area within this new precinct will play and how Council envisages it will support the surrounding residents.</p> <p>A condition has been included on the Gateway determination that requests further information in regard to this aspect.</p>
Affordable Housing	<p>Council have indicated that a Voluntary Planning Agreement is being negotiated to accompany the development of the land which will require at reduced market rates approximately 3000m² of land being provided to a Community Housing Provider for affordable housing along with 15 serviced lots to the NSW Reconstruction Authority for the relocation of flood affected homes.</p>

4.3 Infrastructure

Infrastructure provision within this precinct has been a key challenge for Council to overcome. The land pre-2022 was not envisaged to accommodate urban development due to its identification as important farmland. However, since the floods in 2022, Council and the NSW Reconstruction Authority have both identified the site's flood free land and location adjacent to existing urban development and services as important in assisting with the relocation and rebuilding of Lismore.

The land is currently not serviced, however the sewer and water reports indicate that servicing of the land can be achieved through appropriate upgrades. There are a number of funding options to achieve this as well as a commitment from the landowner to deliver the required servicing.

Additionally, as discussed above, there are ongoing challenges in relation to access to the proposed employment land south of Tucki Tucki Creek.

It is considered that a release area of this size warrants an assessment of what designated State public infrastructure may be needed to support the proposal. This would include broader police, health and education infrastructure along with site specific matters such as access upgrades to the Bruxner Highway from Oliver Ave (noting that the proposal has already elected not to seek a rezoning of land along the northern boundary of the site to cater for the expected re-alignment of the Bruxner Highway).

It is therefore considered appropriate that provisions be included within the planning proposal to identify the land as an urban release area in the Lismore LEP 2012 to enable Council to undertake formal consultation with relevant agencies. Council staff have raised no objection to this requirement.

These provisions will also ensure that a DCP is in place to guide future development, and that required public utility infrastructure is available or adequate arrangements have been made to make the infrastructure available prior to development proceeding.

Finally, Council will be encouraged to provide further detail to the Department in relation to the local infrastructure servicing and access arrangements, and to provide a staging plan to articulate how the land will be released in accordance with these arrangements. This will be requested to be articulated at the finalisation stage and is documented in the letter to Council.

5 Consultation

5.1 Community

The planning proposal is categorised as a complex under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of 30 working days is recommended and this

forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 40 working days to comment:

- DPI Agriculture
- Heritage NSW
- NSW Biodiversity and Conservation Division
- NSW Rural Fire Service
- Ngulingah Local Aboriginal Land Council
- NSW Police Force
- Fire and Rescue NSW
- NSW Ambulance
- Northern NSW Local Health District
- Department of Education
- Transport for NSW
- Mining, Exploration and Geoscience
- Essential Energy
- TransGrid
- Rous County Council
- Crown Land
- NSW Reconstruction Authority

6 Timeframe

Council proposes a 13 month time frame to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a complex

An LEP completion date of 12 month in line with its commitment is recommended with regard to the benchmark timeframes for a complex proposal. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the Gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

Due to the number of unresolved s9.1 Directions, and further work required to support the proposal, along with the potential assessment and provision of designated State public infrastructure, it is recommended that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It is consistent with Council's Department approved Lismore Growth and Realignment Strategy 2022; and
- It will help deliver flood free urban land to assist with the wider recovery of Lismore, post the flood events of 2022.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Update the planning proposal to introduce a new Part 7 Urban release areas into the Lismore LEP 2012 and identify the land as an urban release area on the urban release area map;
- Update the planning proposal to remove the reference to North Coast Regional Plan 2036;
- Update the Economic Benefits Assessment to address the requirements of Objective 11 of the North Coast Regional Plan 2041;
- Update the Ecological Assessment to address any potential impacts to Hairy Joint Grass.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 4.1 Flooding, 5.2 Reserving land for Public Purposes, 9.1 Rural Zones and 9.2 Rural Lands are minor or justified, and
- Note that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.3 Planning for Bushfire Protection, 8.1 Mining, Petroleum Production and Extractive Industries and 9.4 Farmland of State and Regional Significance on the NSW Far North Coast are unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is amended prior to consultation to:

- Update the planning proposal to introduce a new Part 7 Urban release areas into the Lismore LEP 2012 and identify the land as an urban release area on the urban release area map that will be subject to State infrastructure, development control plan and public infrastructure requirements;
- Update the planning proposal to remove references to North Coast Regional Plan 2036;
- Update the Economic Benefits Assessment to address the requirements of Objective 11 Support cities and centres and coordinate the supply of well-located employment land of the North Coast Regional Plan 2041; and
- Update the Ecological Assessment to address any potential impacts to Hairy Joint Grass.

2. Consultation is required with the following public authorities:

- DPI Agriculture
- Heritage NSW
- NSW Biodiversity and Conservation Division
- NSW RFS
- Nguringah LALC
- Transport for NSW
- NSW Mining, Exploration and Geoscience
- Essential Energy

- TransGrid
 - Rous County Council
 - Crown Land
 - NSW Reconstruction Authority
3. Separate and specifically targeted consultation is required with the following public authorities to determine any potential designated State Infrastructure provisions requirements:
- NSW Biodiversity and Conservation Division
 - NSW RFS
 - NSW Police Force
 - Fire and Rescue NSW
 - NSW Ambulance
 - Northern NSW Local Health District
 - Department of Education
 - Transport for NSW
4. The planning proposal should be made available for community consultation for a minimum of 30 working days.
5. That Lismore City Council is not authorised to act as the Local Plan Making Authority for the planning proposal.



11/12/23

(Signature)_____
(Date)

Craig Diss

Manager, Northern Region



13/12/2023

(Signature)_____
(Date)

Jeremy Gray

Director, Northern Region

Assessment officer

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