



IRF 23/2976

Gateway determination report – PP-2023-2412

To rezone certain lands at Monaltrie for large lot residential and environmental conservation purposes and amend associated development standards.

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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 |
|--|
| Planning Proposal - Rezoning at Monaltrie Lane, Wyrallah Road and Durham Road, Monaltrie October 2023 |
| ‘Independent Review of Koala Related Matters’ – Greencap 2020 and ‘Preliminary Ecological Assessment’ – Blackwood 2016 |

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|---------------------------------|--|
| LGA | Lismore City Council |
| PPA | Lismore City Council |
| NAME | To rezone certain lands at Monaltrie for large lot residential and environmental conservation purposes and amend associated development standards. |
| NUMBER | PP-2023-2412 |
| LEP TO BE AMENDED | Lismore Local Environmental Plan (LEP) 2012 |
| ADDRESS | 57 Durham Road, 40 Monaltrie Lane, 70 Monaltrie Lane and 520 Wyrallah Road, Monaltrie |
| DESCRIPTION | Lot 3 DP 1002771, Lot 4 DP 789389, Lot 5 DP774499 and Lot 4 DP 24529 |
| RECEIVED | 30/10/2023 |
| FILE NO. | IRF23/2976 |
| 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 planning proposal is a map only amendment with no changes being proposed to the written instrument.

The proposal applies to 57 Durham Road (Lot 3 DP 1002771), 40 Monaltrie Lane (Lot 4 DP 789389), 70 Monaltrie Lane (Lot 5 DP774499) and 520 Wyrallah Road (Lot 4 DP 24529), Monaltrie.

The objectives of the planning proposal are to rezone the subject lands from RU1 Primary Production to part R5 Large Lot Residential and part C2 Environmental Conservation, amend the applicable minimum lot size and apply a building height limitation.

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

| Control | Current | Proposed |
|--------------------------------|------------------------|---|
| Zone | RU1 Primary Production | Part R5 Large Lot Residential Part C2 Environmental Conservation |
| Maximum height of the building | N/A | 9m* |
| Minimum lot size | 40 hectares | Mix of 3500m ² , 1ha, 3ha and 5ha for land zoned R5 |
| Number of dwellings | 3 | 100 – 120 |

* The planning proposal provides contradictory advice in relation to the maximum height of buildings standard. Page 2 indicates that a maximum height of buildings of 9m will apply across the site whilst page 5 indicates that an 8.5m height of building will apply to land zoned R5. Council have confirmed that the intention is for a 9m building height to apply across the site.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The site has an area of approximately 161 hectares and is not within or near an established rural residential area. The site is located approximately 4km south of the edge of the Lismore urban area (Figures 1 & 2). It has access to Lismore via Wyrallah Road and access to Goonellabah via Durham and Skyline Roads. The land is currently used primarily for grazing and rural residential purposes and accommodates three dwellings and various ancillary outbuildings and farm structures. The site is mostly cleared but also features scattered trees and patches of native and exotic vegetation which is known to include primary and secondary koala habitat and koalas. Several first order watercourses traverse the land as well as one second order watercourse. The topography of the land varies from a relatively flat flood affected area to slopes in excess of 30% with rock outcrops.

Land surrounding the subject site consists primarily of large rural lots used for grazing and rural lifestyle purposes. The parcel to the north contains significant primary koala habitat that is in the process of being rehabilitated.

The subject land is currently zoned RU1 Primary Production. No height of buildings control applies and current minimum lot size is 40 hectares. This Planning Proposal applies to land described in Table 3 and as shown in Figures 1 & 2.

The proposal applies to 57 Durham Road (Lot 3 DP 1002771), 40 Monaltrie Lane (Lot 4 DP 789389), 70 Monaltrie Lane (Lot 5 DP774499) and 520 Wyrallah Road (Lot 4 DP 24529), Monaltrie as detailed in Table 4.

Table 4 Land subject to this planning proposal

| Lot | Deposited Plan | Address | Land area |
|-----|----------------|------------------------------|-----------|
| 3 | 1002771 | 57 Durham Road, Monaltrie | 39.5ha |
| 4 | 789389 | 40 Monaltrie Lane, Monaltrie | 34.1ha |

| Lot | Deposited Plan | Address | Land area |
|-----|----------------|------------------------------|-----------|
| 5 | 774499 | 70 Monaltrie Lane, Monaltrie | 40.5ha |
| 4 | 24529 | 520 Wyrallah Road, Monaltrie | 47.3ha |

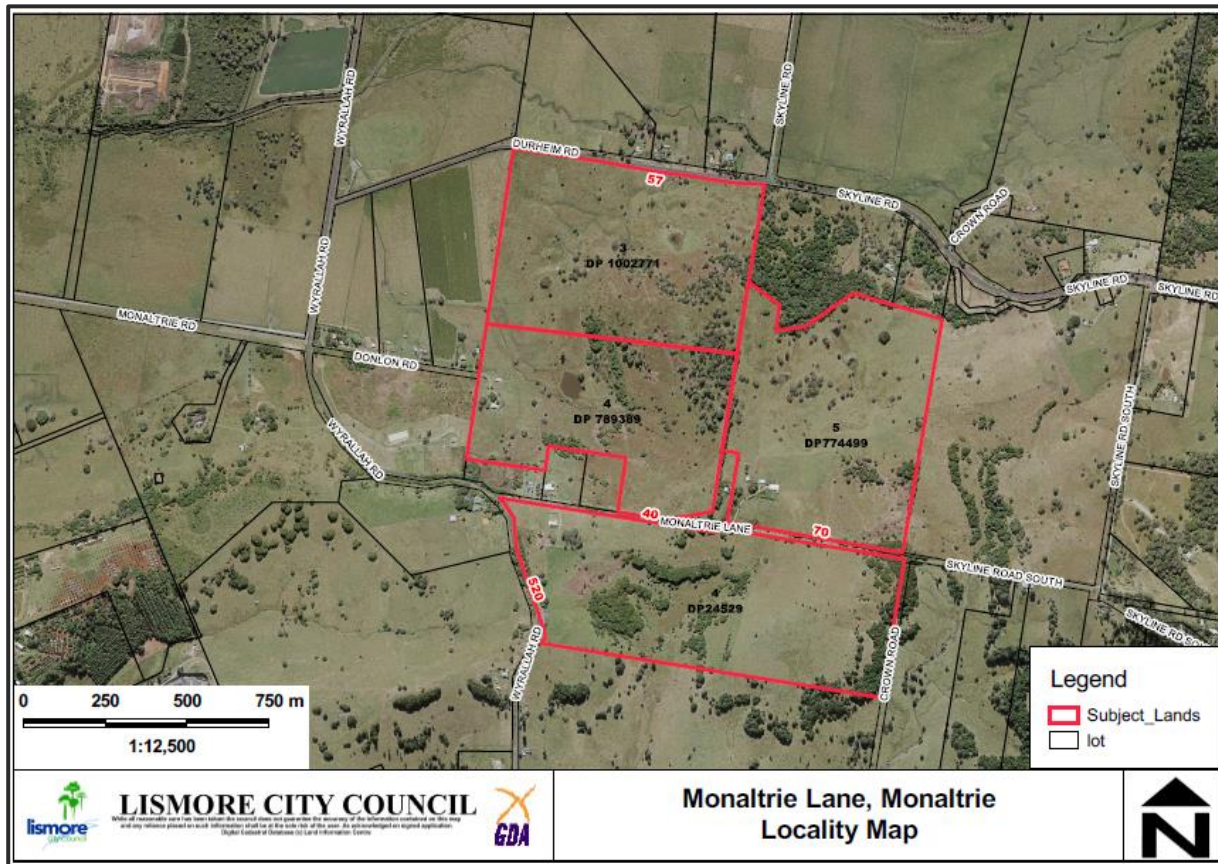


Figure 1 – The subject land (Source: Council report)

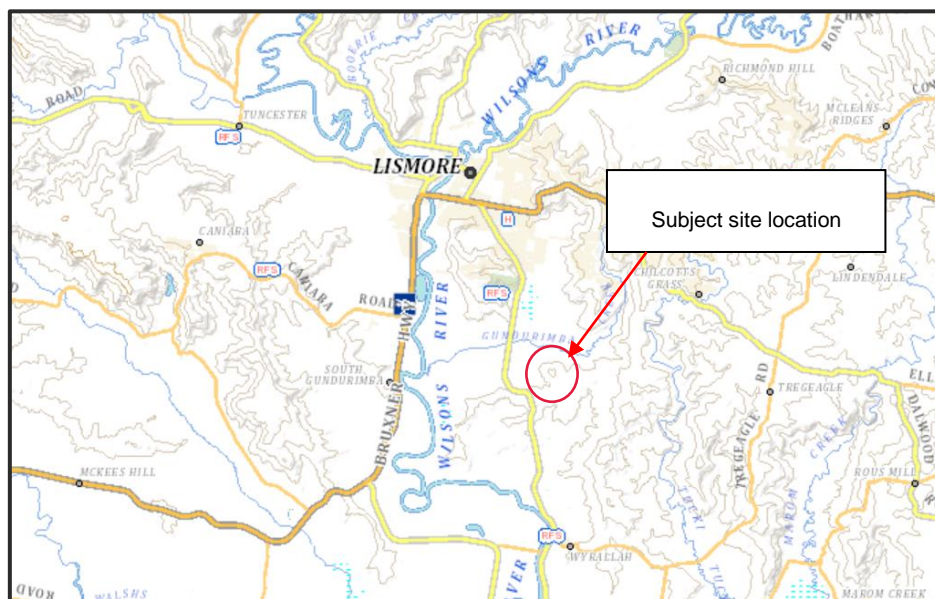


Figure 2 - Subject site location (Source: Six Maps)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning (LZN), minimum lot size (LSZ) and building heights (HOB) maps. If a Gateway determination to proceed is granted, it is recommended to assist community consultation and understanding, that the colours on these maps be amended to be consistent with the existing Lismore LEP 2012 maps.

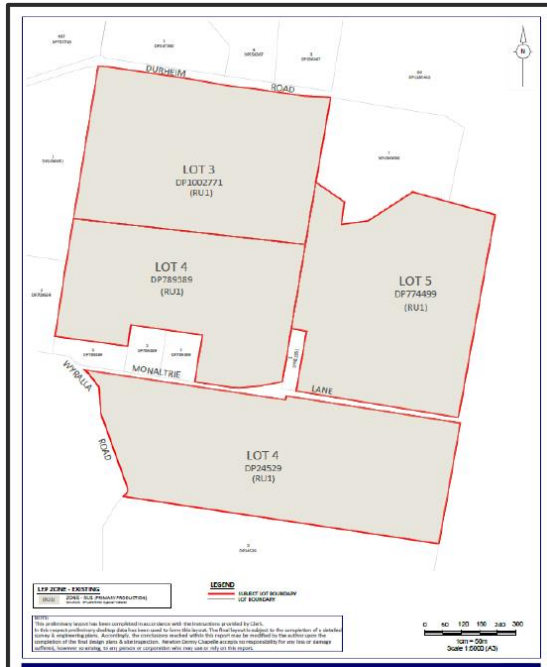


Figure 3 - Existing Land Zoning (Source: Planning proposal)

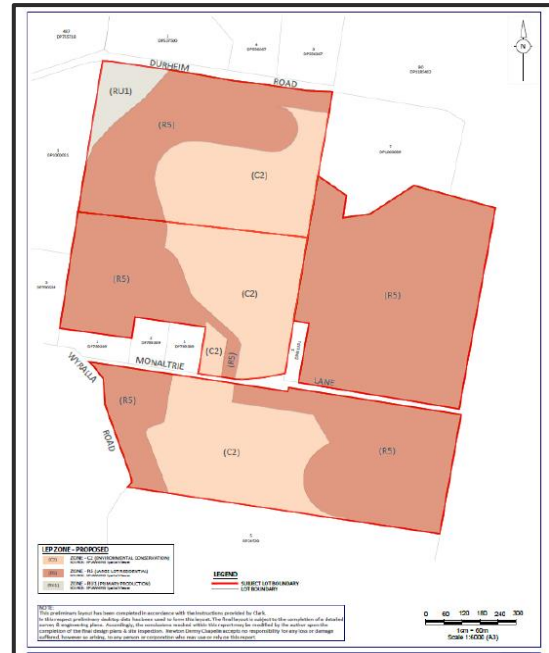


Figure 4 - Proposed Land Zoning (Source: Planning proposal)

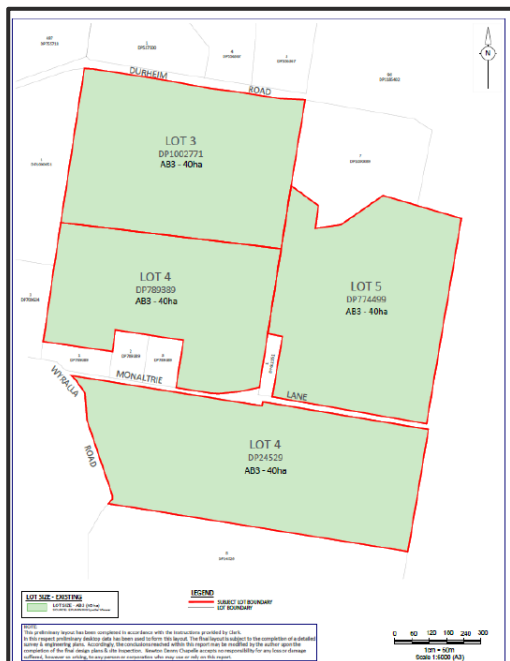


Figure 5 - Existing Minimum Lot Size (Source: Planning proposal)

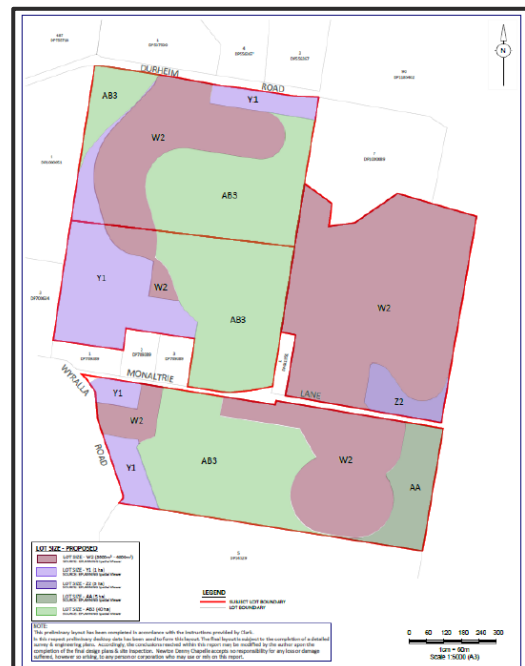


Figure 6 - Proposed Minimum Lot Size (Source: Planning proposal)



Figure 7 - Existing Height of Building
(Source: Planning proposal)



Figure 8 - Proposed Height of Building
(Source: Planning proposal)

1.6 Background

The planning proposal was lodged with Council in 2016 and was considered at a Council meeting in April 2017. No resolution to either support or return the proposal was reached at that time.

The proposal was again considered at the Council meeting on 8 August 2023. Despite Council staff recommending refusal of the application, it was resolved by the elected representatives to send the application to the Department for a Gateway determination.

Council staff concerns include:

- the likely loss and fragmentation of koala habitat and the human impact upon a regionally important koala population;
- it does not accord with Council's Local Strategic Planning Statement and supporting strategies;
- there is no demonstrated need for additional large lot residential land outside of the sites endorsed in the Growth and Realignment Strategy.

The elected representatives resolved to support the planning proposal on 8 August 2023.

2 Need for the planning proposal

The Lismore Growth Management Strategy 2015-2035 (GMS) was adopted by Council at its Ordinary meeting on 12 May 2015 and identified the land preferred for residential and employment use development. The subject site was identified and discussed in the GMS as being within a 'Potential Residential Release Area' (Figure 9). The GMS was approved by the Department on 11 August 2015 subject to the following conditions:

- a) the Department is currently undertaking a review of its State and regionally significant farmland policy, and that until this review is completed, new planning proposals seeking to rezone this land within the proposed release areas should be deferred;

- b) reference to using Schedule 1 Additional Permitted Uses of the LEP to facilitate a service station at 1055 Bruxner Highway, Goonellabah being removed;
- c) Appendix 2 Criteria for Planning Proposals Adjacent to Urban Residential Land being removed; and
- d) 123 Taylor Road, Chilcotts Grass is currently shown on the proposed release area map but should also be included within the written text identifying the reasons for its identification as a potential future residential area.

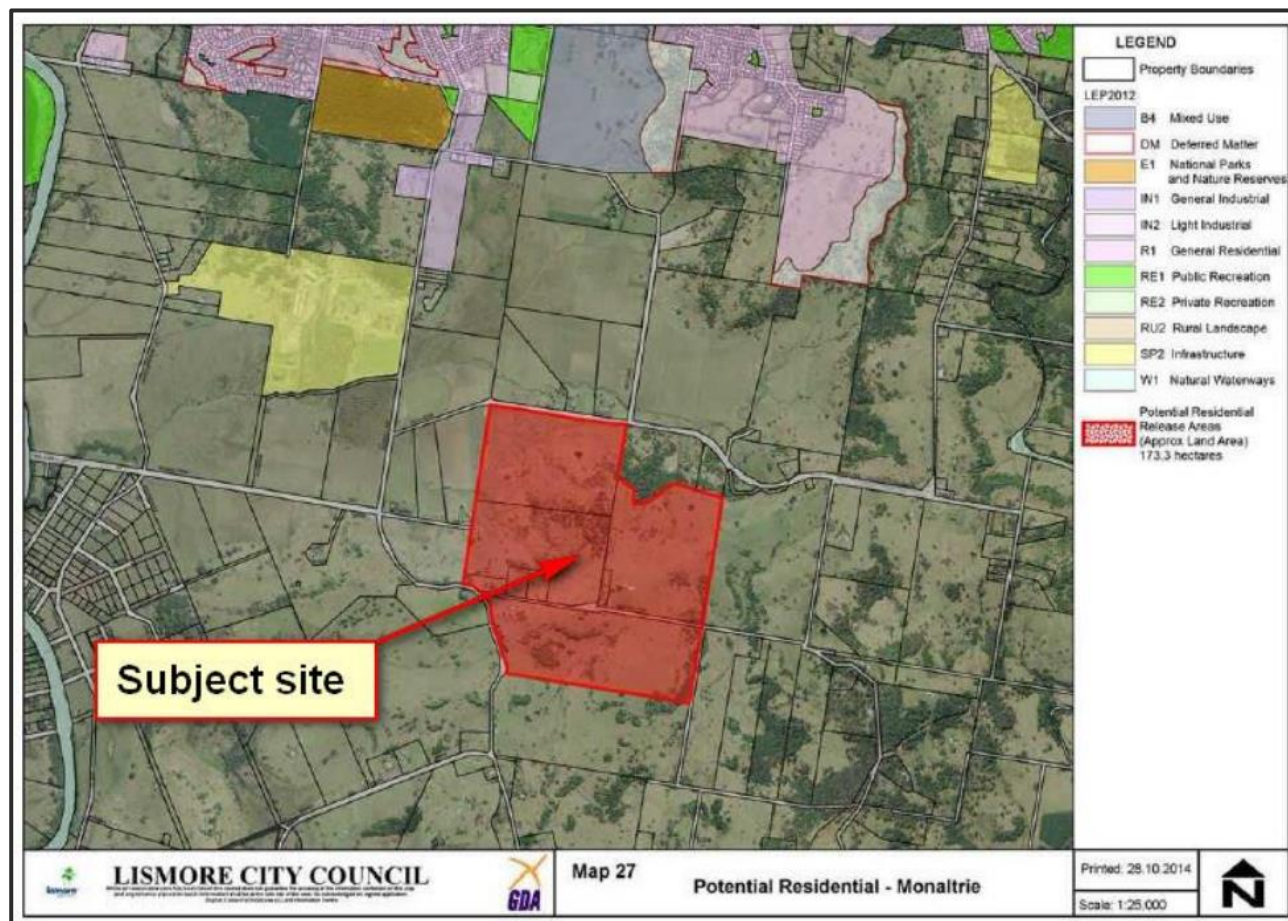


Figure 9 – Subject land as shown in the GMS 2015 (Source: Planning proposal)

The GMS was reviewed by Council in 2022 to ‘realign and re-imagine’ the future growth of Lismore in response to the 2022 flood events.

Since the GMS was adopted in 2015, Lismore’s new housing stock has continued to be dominated by single dwellings of 3-4 bedrooms. Separate dwellings make up 84% of all housing stock, with 74% of dwellings having three or more bedrooms (ABS, 2021). This is despite an average household size of 2.4 people and lone person households being both the dominant household type (30.4%) and fastest growing household type (ABS, 2021). The trend towards smaller households, along with an ageing population and a desire from the Lismore community to live within walkable precincts to shops and essential services informed the review of the GMS, together with the draft Affordable and Diverse Housing Strategy (ADHS) which aims to stimulate additional affordable and medium density housing in the Lismore urban area. The ADHS was adopted by Council in March 2023.

The Lismore Growth and Realignment Strategy 2022 (GARS) was adopted by Council in December 2022 and superseded the previous GMS. The GARS identifies that Lismore’s population is made up of approximately 63% of people living in the urban area and 36% living in rural or village/hamlet areas. The majority of Lismore’s growth and realignment is anticipated to occur within the urban area, with increased medium density areas that are close to health, retail

and open space facilities being a key component of the strategy as household sizes decline and the population ages.

In line with the above findings, all sites identified in the GMS were reconsidered for their merit and strategic alignment with the LSPS. Specifically, it was determined that the subject site was no longer considered to reflect Lismore's growth values and was not deemed to be a suitable and sustainable location for future residential growth. As a consequence, the site was excluded from the GARS.

The GARS was approved by the Department in June 2023 subject to the following conditions:

- a) the proposed R5 Large Lot Residential land at Tullera, and the additional R5 Large Lot Residential land at Bexhill not identified under the GMS are not supported, as they are located on mapped important farmland and the need for additional large lot residential land has not been substantiated; and
- b) the proposed planning area at Clunes, the Bruxner Highway potential regional employment lands precinct, and the Oliver Ave employment land at Goonellabah, are supported only for further investigation with further work being required to confirm the strategic merit and suitability of these lands for future development.

It is noted that the GARS identifies there is a more than adequate land supply to support any likely future housing demand over the next 20 years. In this regard, the strategy has adopted a high growth model catering for an additional 4,000 residents and 3,105 dwellings across the local government area (LGA) by 2041, despite the Department's 2022 Population and Dwelling projections forecasting a decline in population and the need for approximately 850 less homes across the LGA by 2041.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041 (NCRP).

Table 5 Regional Plan assessment

| Regional Plan Objectives | Justification |
|---|--|
| Objective 1: Provide well located homes to meet demand | <p>The intended outcomes are to provide for large lot residential land, improving Lismore's supply of this type of housing.</p> <p>As the site is no longer identified in a Department approved strategy and will not contribute towards the targets set in the ADHS, the proposal is not in accordance with Objective 1 of the NCRP. No detail or justification on the need for additional R5 Large Lot Residential development outside the sites already identified in the GARS has been provided.</p> |

| | |
|---|---|
| <p>Objective 3: Protect regional biodiversity and areas of high environmental value</p> | <p>The site accommodates:</p> <ul style="list-style-type: none"> at least two threatened species; the koala, and the Rose Crowned Fruit-Dove, mapped koala habitat, and at least three vulnerable species/habitat: Hairy-joint Grass; the Long-nose Potoroo; and the Southern Myotis, along with the ecological systems that support complexity for these species. <p>A range of mitigation measures including the use of C2 zoning to protect areas of koala habitat and investigation and investigating the feasibility of establishing a Biodiversity Stewardship agreement on the site to support habitat compensation plantings are proposed to address these impacts. Council staff have however raised concerns that these mitigation measures may not be sufficient and that the full impact of the proposal is unable to be determined until further surveys for issues like the threatened Hairy-joint Grass can be undertaken.</p> <p>Further, the Department referred the proposal to the Department of Climate Change, Energy, the Environment and Water - Biodiversity Conservation and Science (BCS) for advice following receipt of the request for a Gateway determination. BCS object to the planning proposal in its current form.</p> <p>As BCS and Council have raised concerns about the likely impact of the planning proposal on the environment and threatened species, the proposal is considered to be inconsistent with Objective 3 of the NCRP.</p> |
| <p>Objective 4: Understand, celebrate and integrate Aboriginal culture</p> | <p>A search of the Aboriginal Heritage Information Management System (AHIMS) database did not reveal any records of Aboriginal sites or places on the subject land or adjoining land. The site is not mapped as containing any Aboriginal or European cultural heritage items or values and is not listed in Schedule 5 Environmental heritage of the Lismore LEP 2012.</p> <p>However, as the site is on a ridgetop it has been identified as having potential Aboriginal cultural significance that could include traditional pathway routes amongst the ridge complex linking the areas of Tregeagle, Wyrallah and Tucki to the south east to the Wilson River flats to the north-west around what is now Lismore CBD. These localities contain both recorded and unrecorded (but known) Aboriginal Sites. The subject site may also be part of a possible route from the lowlands of Wyrallah and Monaltrie to the south and west to the culturally significant (but unrecorded) Wilsons Nature Reserve and Girards Hill to the north-west, as well as the plateau of Goonellabah to the north.</p> <p>It is considered the planning proposal is inconsistent with Objective 4 of the NCRP. If the proposal were to proceed, an Aboriginal Cultural Heritage Assessment would need to be undertaken to confirm the suitability of the proposal.</p> |
| <p>Objective 8: Support the productivity of agricultural land</p> | <p>The site does not contain land mapped as important farmland under the NCRP and has previously been identified as being lower Class 4 and 5 agricultural lands, with two small areas of Class 3 agricultural land on the western edge of the site.</p> <p>The land is identified to only be suitable for grazing, and due to the steep slope and surface rock present over a substantial part of the site, is difficult to maintain quality pasture over parts of the site. As such, it is considered the development of the land for large lot residential purposes will not substantially reduce the agricultural potential or production of the locality or region.</p> |

| | |
|---|---|
| Objective 16: Increase active and public transport usage | Given the site would not be within walking distance to any amenities or social infrastructure and result in the creation of a completely car dependent settlement, the proposal is inconsistent with Objective 16. |
| Objective 18: Plan for sustainable communities | <p>Within this section of the Regional Plan are key targeted actions that align with the Lismore RCAP. Of specific relevance to this proposal is</p> <p><i>“Protection and enhancement of vegetation to strengthen corridors that support koalas and other wildlife”.</i></p> <p>The subject land contains at least two threatened species; the koala, and the Rose Crowned Fruit-Dove, mapped koala habitat, and at least three vulnerable species/habitat along with the ecological systems that support complexity for these species.</p> <p>Based on the current information available, it is considered that the planning proposal is likely to have an impact upon the habit of a threatened species including koalas and the proposal is inconsistent with this objective.</p> |
| Urban Growth Area | The subject land is located outside of the Urban Growth Area boundary for the Lismore Local Government Area. |

3.2 Northern Councils E Zone Review Final Recommendations

The Northern Councils E Zone Review Final Recommendations Report aims to provide greater certainty for landowners, councils and the community on how environmental zoning will be applied.

Environment zones are designed to protect land that is of important environmental value. The Final Recommendations Report ensures that environmental conservation zones are applied to places on the Far North Coast where the primary use of the land justifies either environmental conservation (C2) or environmental management (C3) zoning, based on validated ecological evidence.

The planning proposal has not addressed consistency of the intended C2 zone with the Northern Councils E Zone Review Final Recommendations.

3.3 Draft Resilient Lands Strategy

The NSW Reconstruction Authority has developed a draft Northern Rivers Resilient Lands Strategy (draft Strategy) as part of the Resilient Land Program. It outlines the work undertaken to date and next steps to identify a sustainable pipeline of land and housing to support the relocation of residents impacted by the 2022 floods.

The draft Strategy identifies suitable land in each local government area to support flood recovery and climate resilient development for housing in the Northern Rivers to help local communities to recover and rebuild following the 2022 floods, as well as land that can support medium and long-term responses to future natural hazard events.

The draft Strategy has identified the following drivers of housing need in the Northern Rivers:

1. loss of housing stock from the 2022 floods;
2. intra and interstate migration from larger urban centres, principally driven by the covid-19 pandemic and broader lifestyle trends;
3. within-region migration from the coast to the hinterland;
4. reduction in household size per dwelling;

5. prevalence of informal housing / insecure tenures increase vulnerability to extreme weather events; and
6. lack of housing diversity (75% of the region's housing stock is 3+ bedroom detached dwellings).

The largest number of sites identified within the draft Strategy for immediate progression is within Lismore, with 100% of short-term sites being located within or adjacent to existing urban areas. The Lismore LGA also has 3 medium term sites (5-10 years) and 1 long-term site (10+ years) identified in the draft Strategy.

Specifically, of the 10 identified sites within the Lismore LGA:

- 9 out of 10 sites allow for the efficient delivery of infrastructure;
- 10 out of 10 sites provide connectivity to transport,
- 8 out of 10 sites have reasonable access to community facilities; and
- 9 out of 10 sites can support diverse housing options.

It is important to recognise that the draft Strategy has, in part, highlighted Lismore's priority need for flood free smaller dwellings on smaller lots and affordable housing, all within close proximity to urban centres to enable efficient delivery of infrastructure and access to facilities and services. What the draft Strategy does not show is a need for large lot residential development located in areas isolated from existing urban settlements.

3.4 Local

An assessment of the planning proposal against Council's relevant local strategic planning documents is detailed below, noting that at the time of lodgement with Council it was consistent with the GMS in place at that time but has since been removed and has become inconsistent with Council's current GARS which was approved by the Department in June 2023.

Table 6 Local strategic planning assessment

| Local Strategies | Justification |
|---|--|
| Local Strategic Planning Statement (LSPS) | <p><i>Planning Priority 1: "Growth is consolidated around Lismore city, CBD and villages".</i></p> <p>Action 1.1 - Prepare a new Growth Management Strategy that (in part):</p> <ul style="list-style-type: none"> • reviews areas needed to meet population growth; and • consolidates growth in existing urban and villages areas to ensure protection of environmental and primary production assets. <p>The proposal is inconsistent with this priority as the GARS has not identified the subject land as suitable as discussed in section 2 of this report.</p> <p><i>Planning Priority 3: Rural and natural landscape values will be identified and protected</i></p> <p>Action 3.2 - Protect rural vistas by clustering new residential development in rural areas around existing villages and large lot residential developments.</p> <p>The planning proposal is inconsistent with this planning priority and action as it will create a new rural residential living area that is isolated from existing villages and other large lot residential development.</p> <p><i>Planning Priority 10: "Areas of high biodiversity value and connectivity are protected and enhanced"</i></p> <p>Action 10.1 - In the update of the GMS, review areas nominated for potential future development to exclude land with high conservation value, including prime koala</p> |

| | |
|--|--|
| | <p>habitat, or ensure these values can be protected in any future rezoning and development; and</p> <p>Action 10.7 - Focus development to areas of least biodiversity sensitivity through appropriate zoning and working with development proponents to avoid areas of high biodiversity value.</p> <p>An ecological report for the site in conjunction with advice of Council's ecologist has confirmed that occupied core Koala habitat exists broadly all across the property (variously as patches and widespread scattered paddock trees). Some Koala habitat both primary and secondary is mapped on the Lismore Comprehensive Koala Plan of Management (CKPoM) mapping. Council have also noted that there is a significant number of mature Koala food trees, mainly Forest Redgums, scattered throughout the property that are not recorded on the CKPoM mapping. The trees represent an extensive area of primary koala habitat and provide for refuge, forage, connectivity and free movement east to west across the site.</p> <p>The locality is a known koala population strong hold with evidence of intergenerational persistence and is considered the population source of the Monaltrie Goonellabah, Treageagle locality. Council's ecologist identifies habitat loss, fragmentation, road mortality, changes in food availability and the risk of increased disease as potential impacts on koalas and their habitat.</p> <p>Apart from the Koala, the site is also known to provide habitat for the Rose Crowned Fruit-Dove and at least three vulnerable species/habitat along with the ecological systems that support complexity for these species.</p> <p>The planning proposal is inconsistent with the above planning priorities and actions of the Lismore LSPS.</p> |
| Growth and Realignment Strategy (GARS) | <p>The subject land is not identified in Council's Departmental endorsed GARS.</p> <p>In June 2022, when conditionally endorsing the Lismore GARS, the Department instructed Council that land at another site being put forward (at Tullera) for future Large Lot Residential be removed from the Strategy because the <i>"need for additional large lot residential land has not been substantiated"</i>.</p> <p>Council's adopted GARS identifies land for future housing that is more suitably located and adequate to cater for expected and aspirational housing needs. No justification on the need for the proposed rezoning has been provided within the submitted documents.</p> <p>The planning proposal is inconsistent with the GARS.</p> |

3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

| Directions | Consistent / Not Applicable | Reasons for Consistency or Inconsistency |
|--------------------------------------|-----------------------------|--|
| 1.1 Implementation of Regional Plans | Inconsistent | The proposal is inconsistent with this direction for the reasons discussed in section 3.1 of this report relating to the NCRP. These inconsistencies are considered to be material. |
| 3.1 Conservation Zones | Inconsistent | <p>The proposal is inconsistent with this Direction as it proposes to rezone land that is known to have environmental values and the potential impacts and mitigation measures to the values have not been adequately assessed or qualified.</p> <p>While the planning proposal does aim to protect certain values and areas through the use of a C2 zone, Council's ecologist has raised concerns that the impact of future residential development on land outside the proposed C2 zones is considered to be potentially significantly harmful and is not expected to sufficiently facilitate the protection and conservation of environmentally sensitive areas on the site.</p> <p>The proposed structure plan for the site shows a road dissecting the current east-west koala corridor and the ongoing impact of residential development (traffic, pets, pools, fences etc) presents a significant risk for the koala population in this area.</p> <p>Further, the Department referred the proposal to BCS for advice following receipt of the request for a Gateway determination. BCS object to the planning proposal in its current form.</p> |
| 3.2 Heritage Conservation | Unresolved | <p>The proposal is potentially inconsistent with this Direction as it does not contain provisions to facilitate the conservation of Aboriginal or European cultural heritage.</p> <p>Consistency with this Direction is unable to be resolved until an Aboriginal Cultural Heritage Assessment has been undertaken to confirm the suitability of the proposal.</p> |

| Directions | Consistent / Not Applicable | Reasons for Consistency or Inconsistency |
|---|-----------------------------|--|
| 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | Unresolved | <p>The planning proposal has not addressed consistency of the intended C2 zone with the Northern Councils E Zone Review Final Recommendations (E Zone Review) as required by this Direction.</p> <p>Consistency with this Direction is unable to be resolved until the proposal addresses this matter in detail to confirm the suitability of the proposal.</p> |
| 4.1 Flooding | Inconsistent - Justified | <p>The proposal is inconsistent with this Direction as it affects land that is flood prone and does not address the matters identified in the Direction.</p> <p>The north-west corner of the subject land (approximately 0.6 hectares) is predicted to be affected by the 1 in 100-year ARI flood event. This section of the subject land is proposed to remain RU1 with a 40ha minimum lot size.</p> <p>Council's flood mapping also shows that only a small part of the subject land will be impacted by a probable maximum flood event (PMF). It is expected a subdivision plan can be designed to ensure any future building envelopes are located above the PMF.</p> <p>It is considered that any inconsistency with this Direction is of minor significance due to the small section of the lot potentially impacted by the PMF.</p> |
| 4.3 Planning for Bushfire Protection | Unresolved | <p>The planning proposal is potentially inconsistent with this Direction as the subject site is mapped as bushfire prone.</p> <p>The Direction provides that Council must consult with the Commissioner of the NSW Rural Fire Service after a Gateway determination is issued and before community consultation is undertaken. Until consultation has been undertaken, the Direction remains unresolved.</p> |
| 4.4 Remediation of Contaminated Land | Unresolved | <p>A preliminary contaminated land assessment has not been undertaken. This Direction is unable to be resolved until a preliminary contaminated land assessment is undertaken and determines the suitability of the site.</p> |

| Directions | Consistent / Not Applicable | Reasons for Consistency or Inconsistency |
|---|-----------------------------|--|
| 4.6 Mine subsidence and unstable land | Unresolved | <p>This Direction applies as the planning proposal seeks to permit development on land that has been identified as potentially unstable due to its slope.</p> <p>Parts of Lots 3 DP 1002771 and Lot 4 DP 789389 are identified in Council's GIS as being potentially subject to mass movement. A preliminary geotechnical assessment was undertaken in 2016, identifying parts of the site with a slope in excess of 25% that are not likely to be suitable for rural residential use or wastewater disposal.</p> <p>Whilst the planning proposal recommends that the areas identified with high slope are to be located within the C2 zone, consistency with this Direction is unable to be resolved until a detailed geotechnical report is undertaken.</p> |
| 5.1 Integrating Land Use and Transport | Inconsistent | <p>The subject site is located approximately 4km south of the edge of the Lismore urban area. The planning proposal seeks to rezone land from RU1 to R5 and C2.</p> <p>The proposal is inconsistent with this Direction and is unable to be resolved as it seeks to rezone a site that is not adjoining the existing urban footprint and is not on a new or proposed public transport corridor. The site is just within 5km of the 683 bus which services Lismore, Lismore Heights and Southern Cross University.</p> <p>Development of the subject site will mean additional car dependent households accessing services and facilities in the Lismore and Goonellabah urban centres.</p> <p>Development of the land is also not supported by Council's GARS or LSPS.</p> |
| 5.3 Development Near Regulated Airports and Defence Airfields | Unresolved | <p>The proposal is potentially inconsistent with this Direction as the site is within the mapped area for Obstacle Height Limitation Surfaces and the PANS-OPS surfaces for the Lismore airport.</p> <p>This Direction is unable to be resolved without consultation with the Civil Aviation Air Authority (CASA) and the relevant Airport operator/manager.</p> |

| Directions | Consistent / Not Applicable | Reasons for Consistency or Inconsistency |
|-----------------------|-----------------------------|--|
| 6.1 Residential Zones | Inconsistent | <p>The proposal is inconsistent with this Direction and is unable to resolved as it is for unplanned large lot residential development that:</p> <ul style="list-style-type: none"> will not make more efficient use of existing infrastructure and services; increase the consumption of land for housing and associated urban development on the urban fringe; or is not supported by the GARS or LSPS. |
| 9.1 Rural Zones | Inconsistent | <p>The proposal is inconsistent with this Direction and is unable to resolved as it seeks to rezone rural land to unplanned R5 Large Lot Residential that is not supported by a Department approved strategy, LSPS or the NCRP.</p> |
| 9.2 Rural Lands | Inconsistent | <p>The proposal is inconsistent with this Direction and is unable to comply with a number of the primary production or environmental requirements identified in the Direction and is not supported by the GARS, LSPS or NCRP.</p> |

3.6 State environmental planning policies (SEPPs)

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

4 Site-specific assessment

4.1 Environmental

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

Table 8 – Environmental impact assessment

| Environmenta l Impact | Assessment |
|--------------------------|--|
| Koala | <p>The site falls within the South East Lismore koala planning area of the Lismore CKPOM. Amongst other things, the CKPoM details the development assessment framework and studies required to support development on the site should a Gateway be issued.</p> <p>The ecology study submitted to Council to support the initial planning proposal (2016) concluded that the proposal will be 'Large Impact Development' under the CKPOM, meaning that it would result in some loss or isolation of koala habitat trees and would require a Koala Habitat Assessment report in line with the KPOM guidelines at DA stage. At least three areas of primary koala habitat are mapped on the site and a breeding colony of koalas are known to use the site.</p> <p>The adjoining land to the north accommodates another significant area of primary koala habitat and the broader area of Monaltrie is a regionally significant hub for koala</p> |

population. The KPOM monitoring study of 2020 identified the habitat between Wyrallah, Monaltrie and Tregeagle as a priority for the long-term sustainability of this koala population.

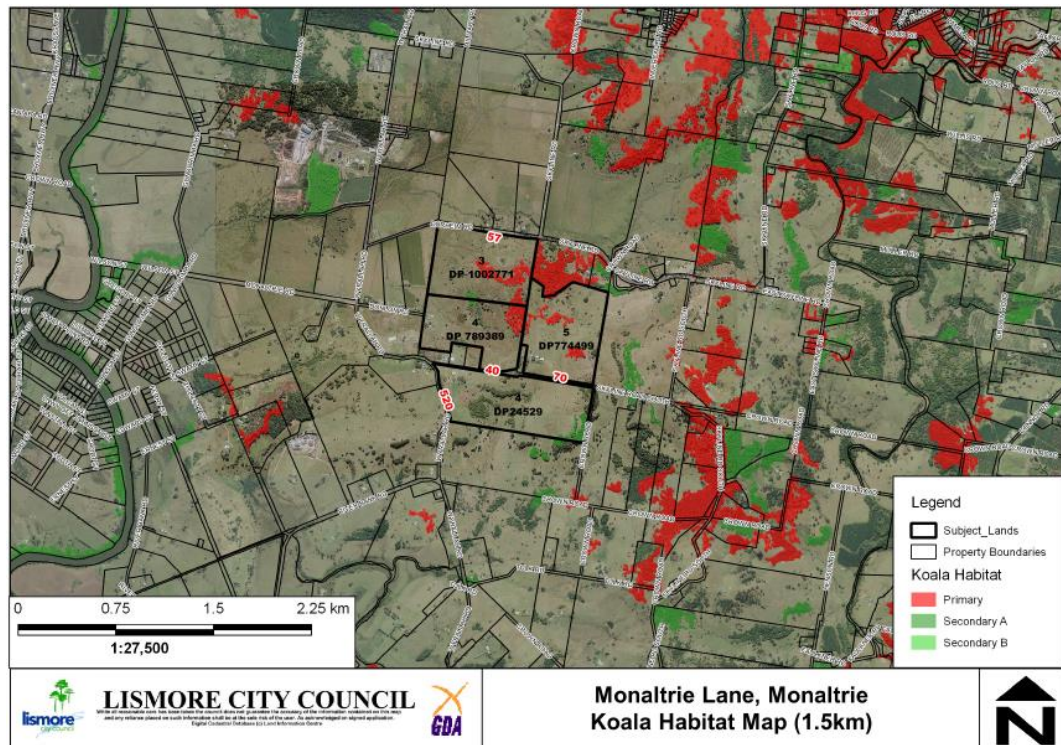


Figure 10 - Koala habitat on and in proximity to the subject land (Source: Council report)

The site also sits within the 'Gundurimba-Tucki Tucki Creek Connector' corridor which is identified as a priority corridor for vulnerable species. This corridor is significant as it connects to Wilson Nature Reserve and Rotary Park and connecting Tuncester-Parrots Nest, Lower Tucki Creek and Wyrallah Connectors.

In response to a 'Review of Koala Related Matters' undertaken by Greencap in 2020, the original planning proposal was amended to include several mitigation measures to reduce the potential impact on the koala and its habitat. This included the incorporation of C2 zoning and minimum lot sizes to limit the areas of future development as well as other mitigation measures detailed in the Report.

A structure plan has also been provided for the site which aims to minimise roads in the proposed C2 areas although a road directly transects part of the C2 area to the south of Lot 4 DP 789389 (Figure 11).

Council staff have confirmed the presence of scattered koala feed trees across the site that are not currently mapped as core koala habitat which are proposed to be rezoned for residential purposes and have raised concerns the proposed koala mitigation measures will not be adequate in avoiding an adverse impact or from impacting adversely on the current east-west corridor across the site.

Following submission of Council's request for a Gateway determination, the Department sought advice from BCS in relation to the planning proposal's potential to impact the koala and its habitat. The Office of Environment and Heritage (OEH) had previously provided comment in 2017 when the first version of the planning proposal was submitted to Council.

Current advice from BCS in relation to potential impact on the koala and its habitat is summarised as follows:

- | | |
|--|---|
| | <ul style="list-style-type: none"> the proposed rezoning would facilitate significant development impacts on koalas. The future construction of roads within the planning area would introduce barriers to koala movement across the planning area and between adjacent land, likely resulting in increased mortality from vehicle strikes. Future residential development in the planning area would lead to increased frequency of dog attacks on koalas. Most of the mapped primary koala habitat, most of the secondary koala habitat and unmapped koala food trees are proposed to be incorporated into the R5 zone areas, leaving these areas of koala habitat vulnerable to clearing for development. The proposed koala impact mitigation measures to be applied as conditions of consent at the development application stage including traffic calming, prohibition of dogs, and koala friendly fencing to enable movement may have some mitigating effect if properly enforced. However, given the location's importance for the local koala population, impacts on the species should be completely avoided at a strategic planning level rather than mitigated at the development application stage. The numerous koala records south-west of the planning area along River Bank Road and north-east of the planning area along Durham Road and Skyline Road indicate koalas likely move between these two areas. Previous correspondence from OEH in January 2017 noted this likely presence of a broad east-west wildlife movement corridor across the planning area, particularly for fauna species with moderate to high mobility such as the koala which is known to move across cleared areas between patches of forest or woodland vegetation. The proposed wildlife corridor shown on the structure plan broadly tracks north-south rather than east-west and includes a bottleneck to the south that is likely too narrow to effectively facilitate koala movement. |
|--|---|

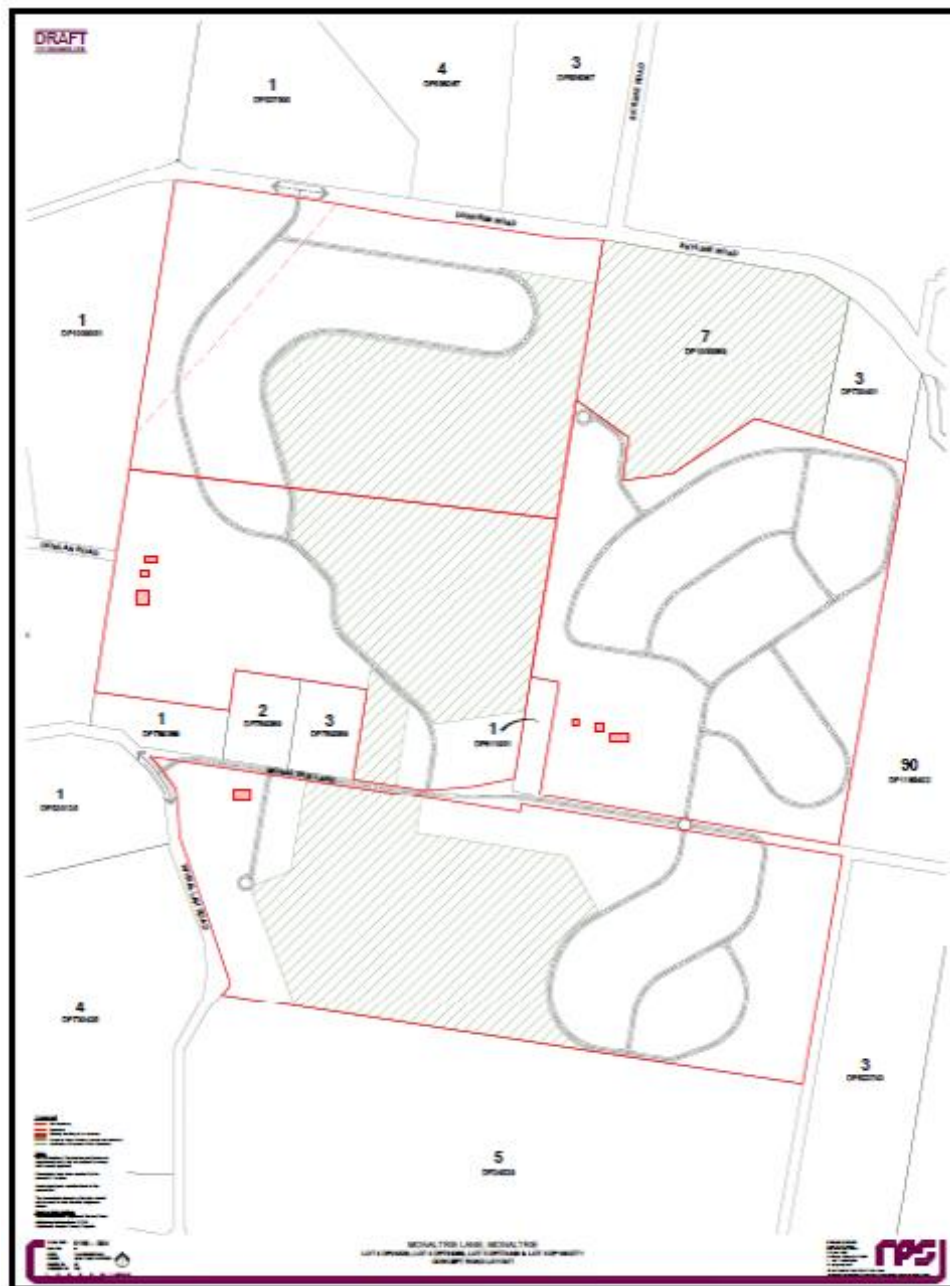


Figure 11 - Concept plan for subject site (showing proposed road through proposed C2 zoning and area of potential high biodiversity values) (Source: Planning proposal)

Biodiversity

The subject land is mapped as containing potential High Environmental Value (HEV) land under the NCRP (Figure 12).

BCS in their most recent correspondence relating to the planning proposal has highlighted the following biodiversity values with relevance to the HEV criteria in the NCRP that have been identified within the proposal's planning area:

- land identified on the Biodiversity Values (BV) Map – parts of the planning area are mapped on the BV Map because they comprise koala habitat identified within an approved Koala Plan of Management;
- vegetation in over-cleared landscapes – land in the north-west of the planning area contains vegetation mapped within over-cleared Mitchell landscapes;

- threatened ecological communities (TECs) – the planning area contains patches of the TECs Subtropical Coastal Floodplain Forest in the NSW North Coast Bioregion, Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions and potentially Lowland Rainforest on Floodplain in the NSW North Coast Bioregion; and
- key habitat for threatened species – the threatened koala and rose-crowned fruit-dove have been recorded in the planning area, with the broader locality known to contain a local source population of koalas.

Feedback from Council's ecologist and OEH in January 2017 on the initial planning proposal submission to Council, suggested further work was required to be done to identify the presence and extent of Hairy-joint Grass and that a planning agreement or similar mechanism should be incorporated to ensure revegetation was undertaken to maintain and enhance wildlife corridor function for koalas in the area. The Blackwood Ecological Services preliminary report also identifies the presence of the Rosecrowned fruit dove during a site assessment, which is listed as 'vulnerable' in NSW.

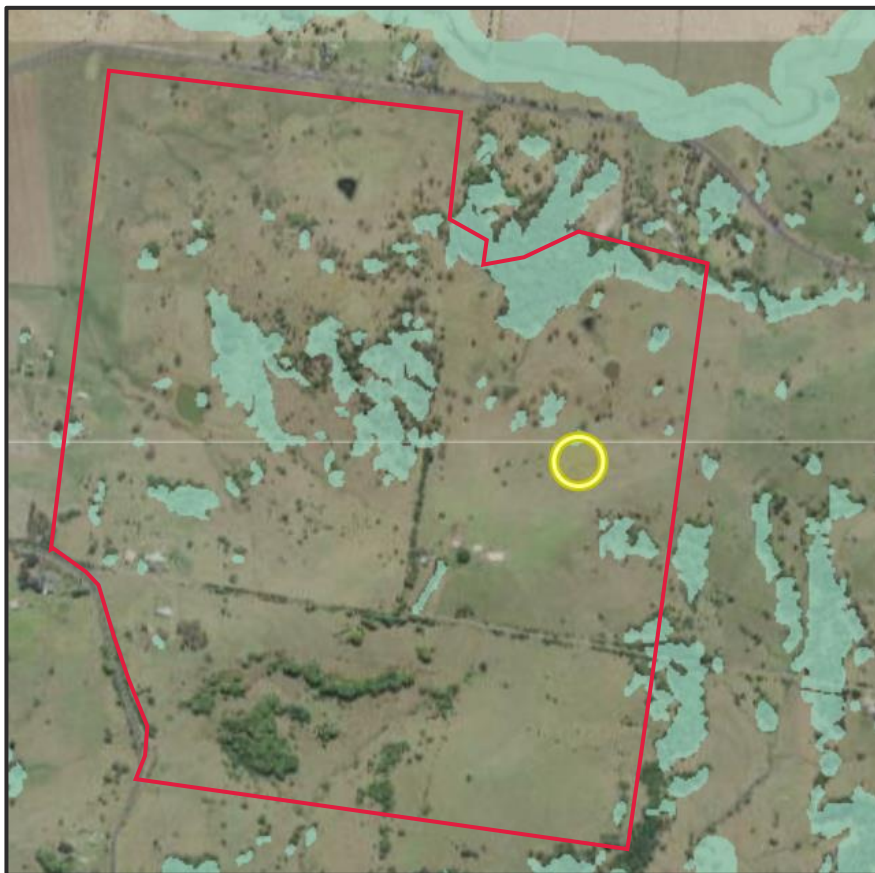


Figure 12 - Potential High Environmental Value lands under the NCRP 2041 (Source: NCRP 2041)

As mentioned above, the planning proposal was previously referred to OEH (now BCS) in December 2016. OEH raised the following biodiversity issues:

- potential presence of Hairy-joint Grass;
- inclusion of all high environmental areas into a C2 zone or alternatively the impacts of future residential development should be offset using an appropriate offsetting biometric such as the BioBanking Methodology;

- the planning proposal should be revised to include an area to be revegetated for maintaining and enhancing east-west wildlife corridor function through the planning area; and
- The planning proposal should be revised to include an area to be revegetated for maintaining and enhancing east-west wildlife corridor function through the planning area.

The preliminary ecological assessment prepared by Blackwood Ecological Services in January 2016 stated that the threatened Hairy-joint Grass may occur in the planning area and recommended targeted survey during the growth season for the species. The OEH correspondence in January 2017 also recommended target survey for the species. BCS in their most recent comments on the planning proposal have indicated the targeted surveys do not appear to have been undertaken to date.

Council staff have also raised concerns that the proposal has not sufficiently addressed these matters and that the full impact of the proposal is unable to be determined until further surveys for issues like Hairy-joint Grass are also undertaken.

Geotechnical instability

The slope of the land varies from level in the north east corner of the site through to a classification of 'hilly' (20-33%) as it rises towards the plateau. Parts of Lots 3 DP 1002771 and Lot 4 DP 789389 are identified in Council's geographical information system (GIS) as being potentially subject to mass movement (Figure 13).

A preliminary geotechnical assessment was undertaken in 2016, identifying that parts of the site have a slope in excess of 25% and are not likely to be suitable for rural residential use or wastewater disposal. These areas are proposed to be within the C2 zone. Until a detailed geotechnical report is undertaken, the suitability of the proposal is unable to be determined. Should a Gateway be issued for this proposal to proceed, this geotechnical report would need to be undertaken prior to consultation.

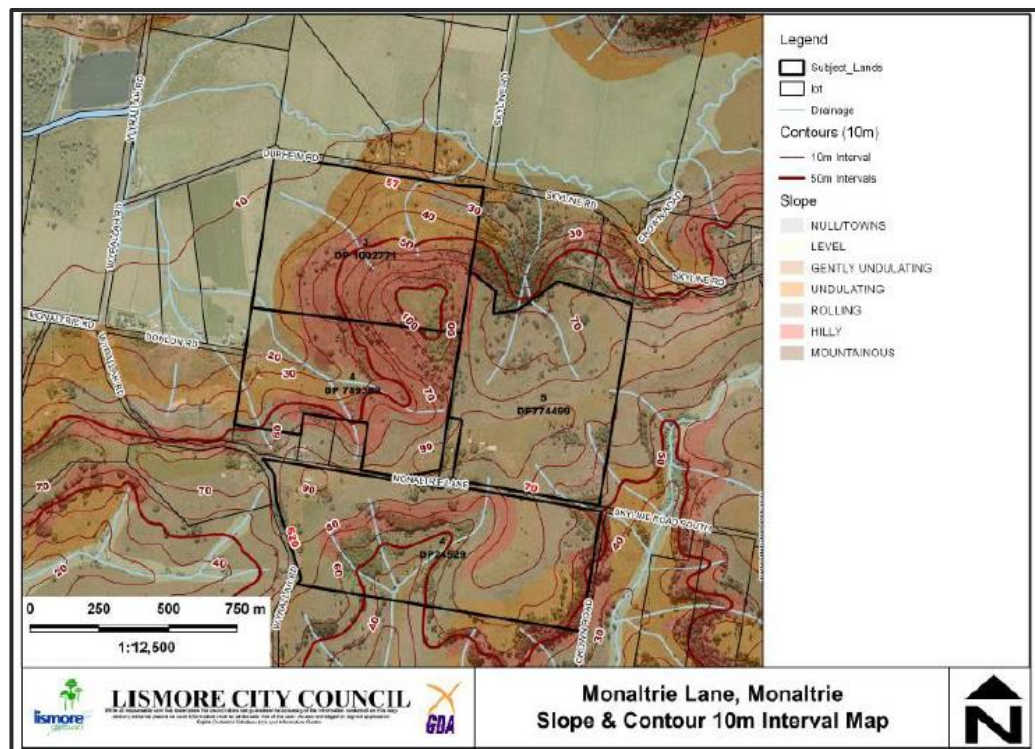
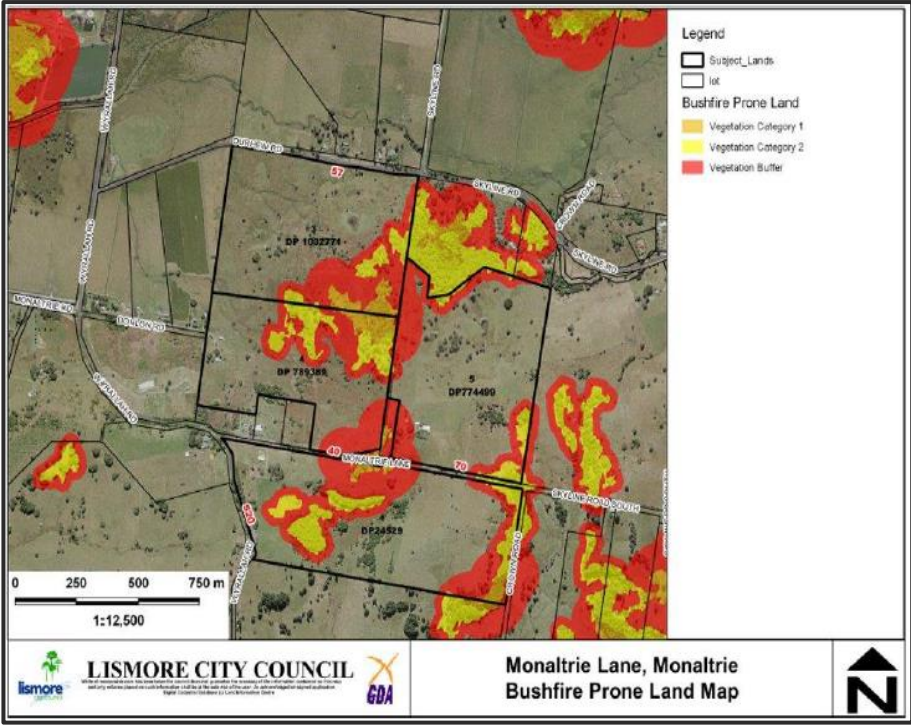


Figure 13 - Subject land showing slope and contour interval (Source: Planning proposal)

| | |
|-------------------|--|
| Visual | Due to the size, nature, location and scale of the proposal a visual impact assessment of the proposal is recommended should a Gateway determination for the proposal to proceed be issued. |
| Cultural heritage | As discussed in section 3 of this report, a search of the AHIMS database did not reveal any records of Aboriginal sites or places on the subject land or adjoining land. However, as the site is on a ridgetop it could have cultural significance. Until an Aboriginal Cultural Heritage Assessment has been undertaken, the suitability of the proposal is unable to be determined. Should a Gateway be issued for this proposal to proceed, the report would need to be undertaken prior to consultation. |
| Landuse conflict | <p>The subject land is zoned RU1 Primary Production and has traditionally been used for cattle grazing and rural lifestyle purposes and accommodates 3 dwellings and various ancillary outbuildings and farm structures.</p> <p>Surrounding landuse is a mixture of:</p> <ul style="list-style-type: none"> cattle grazing – adjoining land a golf driving range - corner of Durheim and Wyrallah Road a shooting range – 700 m to the north along Wyrallah Road a sewage treatment plant – 700 m to the north along Wyrallah Road. <p>The applicant is assuming a yield of between 100 & 120 lots. Permitting rural residential development will increase the potential for land use conflict. Until a Land Use Conflict Assessment (LUCRA) has been undertaken, the suitability of the proposal is unable to be determined. Should a Gateway be issued for this proposal to proceed, the report would need to be undertaken prior to consultation.</p> |
| Bushfire | <p>The subject land is mapped as containing bushfire prone lane (Figure 14). Should a Gateway be supported for the planning proposal, prior to public exhibition, a Bushfire Hazard Assessment will need to be undertaken to confirm the suitability of the proposal.</p>  <p>Figure 14 - subject land showing Bushfire prone land (Source: Planning proposal)</p> |

Flooding

The north-west corner of the subject land (approximately 0.6 hectares) is predicted to be affected by the 1 in 100-year ARI flood event (Figure 15). Council's flood mapping also shows part of the site to be impacted by the PMF (Figure 16). Council states that this part of the subject land is not proposed for rezoning. The draft zoning map however appears to show that a small part of the lot potentially subject to the PMF is to be rezoned R5 with a minimum lot size of 1ha.

As only a small section of the lot is potentially impacted by the PMF, it is anticipated that this issue can be satisfactorily addressed should a Gateway be issued for the proposal.



Figure 15 - Subject land showing impact of 1 in 100yr flood event (Source: Lismore City Council Flood mapping)



Figure 16 - Subject land showing impact of PMF flood event (Source: Lismore City Council Flood mapping)

4.2 Social and economic

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

Table 9 Social and economic impact assessment

| Social and Economic Impact | Assessment |
|----------------------------|---|
| Socio-economic | <p>It is recognised that any new development is likely to have a positive economic contribution through the subdivision and residential development phase. However, Council's response to its social demographic is to stimulate additional affordable and medium density in the Lismore urban area. Large lot residential development located in areas isolated from existing urban settlements does not reflect Lismore's growth values.</p> <p>Council has identified more than adequate land supply in its GARS to support any likely future housing demand over the next 20 years.</p> |

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 10 Infrastructure assessment

| Infrastructure | Assessment |
|------------------------------------|--|
| Water and sewer | <p>Reticulated water is not available to the site and tank water is the only option in the foreseeable future. Wastewater can be disposed of on-site and a report has been supplied that indicates this is plausible down to a lot size of 0.25 ha.</p> <p>A preliminary geotechnical assessment was undertaken in 2016 identifying that parts of the site have a slope in excess of 25% and are not likely to be suitable for rural residential use or wastewater disposal. Lands with slopes greater than 25% are however proposed to be within the C2 zone.</p> |
| Electricity and telecommunications | Electricity and communications are reticulated throughout the locality. |
| Roads and traffic | The subject land has road frontage to Durham Road, Monaltrie Lane and Wyrallah Road. The applicant's preliminary site design shows likely site access will be achieved from Wyrallah and Durham Roads. Council's Engineer has assessed the proposal and advised that a detailed traffic impact assessment should be undertaken for both Wyrallah Road and Durham Roads including intersection analysis for both should the rezoning of the site be progressed. |
| State | It is not anticipated that there will be any impact on State or regional infrastructure or the requirement for additional funding. |

5 Consultation

5.1 Community

Council have not proposed a specific community consultation period however the submitted project timeline has indicated that public exhibition of the proposal would occur in March 2024.

The planning proposal has been categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, August 2023). Should the proposal proceed, the proposal would need to be publicly available for a minimum of 20 working days.

5.2 Agencies

Council has nominated which agencies it proposes to consult with. Should the proposal proceed, it is recommended the agencies listed below be consulted and given 30 days to comment.

- Rural Fire Service
- Department of Primary Industries - Agriculture
- Department of Climate Change, Energy, the Environment and Water - Biodiversity and Conservation Services
- Civil Aviation Safety Authority
- Lismore Airport Manager
- Natural Resource Access Regulator; and
- Ngulingah Aboriginal Land Council

6 Timeframe

Council proposes an 8 month time frame to complete the LEP. This aligns with the LEP Making Guideline benchmark timeframe for a standard planning proposal. However, due to the number of outstanding studies that would be needed to support the proposal, it is not expected that the proposal can be completed within the nominated timeframe. The proposal is therefore not supported to proceed.

7 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority.

As the planning proposal is inconsistent with both the regional and local strategic framework it is recommended that Council not be authorised to be the local plan-making authority for this proposal should it be determined to allow the proposal to proceed.

8 Assessment summary

Based on the assessment outlined in this report, the proposal is not supported for the following reasons:

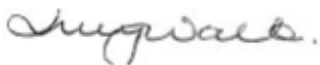
- the rezoning of the land for large lot residential purposes is not consistent with the NCRP, Council's LSPS or Department approved GARS;
- the planning proposal is inconsistent or has potentially unresolved inconsistencies with a number of section 9.1 Ministerial Directions;
- the proposal does not demonstrate the need for additional large lot residential land or justify its location remote from other existing urban or large lot residential areas;

- the subject land has important environmental and biodiversity attributes, including a known local koala population strong hold with evidence of intergenerational persistence as well as being identified in the NCRP as containing potential HEV. Insufficient evidence has been provided demonstrating that the proposal will not have a significant adverse environmental impact on a key source koala population or potential HEV land; and
- the proposal has a number of outstanding studies that would be required to support the rezoning which have not yet been prepared or commenced and would not allow completion in a timely manner in accordance with the Department's LEP Plan Making Guideline (August 2023).

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should not proceed because:

- the rezoning of the land for large lot residential purposes is not consistent with the North Coast Regional Plan 2041, Council's Local Strategic Planning Statement or Council's Department approved Growth and Realignment Strategy 2022;
- the planning proposal is inconsistent or has potentially unresolved inconsistencies with a number of section 9.1 Ministerial Directions;
- the proposal does not demonstrate the need for additional large lot residential land or justify its location remote from other existing urban or large lot residential areas;
- the subject land has important environmental and biodiversity attributes, including a known local koala population strong hold with evidence of intergenerational persistence as well as being identified in the North Coast Regional Plan 2041 as containing potential High Environmental Value land. Insufficient evidence has been provided demonstrating that the proposal will not have a significant adverse environmental impact on a key source koala population or potential High Environmental Value land; and
- the proposal has a number of outstanding studies that would be required to support the rezoning which have not yet been prepared or commenced and would not allow completion in a timely manner in accordance with the Department's Local Environmental Plan Making Guideline (August 2023).



21.02.2024

_____(Signature)

_____(Date)

Lucy Walker

Manager, Local and Regional Planning



26/2/2024

_____(Signature)

_____(Date)

Jeremy Gray

Director, Northern Region



(Signature)

2 May 2024 (Date)

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