



IRF24/644

Gateway determination report – PP-2024-533

Lismore LEP 2012 Affordable Housing Contribution
Clause

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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 March 2024
Draft Lismore Affordable Housing Contribution Scheme
Council Report March 2024

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Lismore
PPA	Lismore City Council
NAME	Lismore LEP 2012 Affordable Housing Contribution Clause
NUMBER	PP-2024-533
LEP TO BE AMENDED	Lismore LEP 2012
ADDRESS	Various lots located in Lismore, North Lismore and Goonellabah
DESCRIPTION	Various (refer to planning proposal maps and AHCS)
RECEIVED	13/03/2024
FILE NO.	IRF24/644
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 objective of the planning proposal is to increase the supply of affordable rental housing in perpetuity through the introduction of an LEP contribution clause and associated Affordable Housing Contribution Scheme (AHCS) while maintaining the viability of development.

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 by inserting a new local provision. The following clause is proposed:

6.12 Affordable Housing Contributions

1) *The objectives of this clause are as follows –*

(a) *to capture increases in land value when rezoning of the land enables an increase in housing density,*

- (b) to enable the imposition of conditions relating to the provision of affordable housing,
- (c) to deliver housing that promotes and retains a socially diverse residential population.

2) This clause applies to development for residential purposes on land identified as “affordable housing contribution area” on the Affordable Housing Contribution Scheme Map with the exception of

- (a) Public housing as defined in section 3 of the Housing Act 2001;
- (b) Community housing as defined in section 3 of the Housing Act 2001; or
- (c) Development on land zoned as R5 Large Lot Residential.

3) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring an affordable housing contribution.

4) The contribution must be calculated in accordance with the Lismore Affordable Housing Contribution Scheme adopted by the Council on [insert date].

5) In this clause –

Affordable housing contribution area means the Lismore Local Environmental Plan 2012 Affordable Housing Contribution Scheme Map:

Lismore Affordable Housing Contribution Scheme means the Affordable Housing Contributions Scheme adopted by the Council on [insert date].

A new Affordable Housing Contributions map is proposed to identify the sites that the above clause applies.

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

It is noted that clause needs to reference the final adopted Lismore Affordable Housing Contribution Scheme. It is understood that Council wanted to exhibit the draft AHCS with the planning proposal before its final adoption. The final scheme will however need to be adopted by Council before the planning proposal can be finalised.

1.4 Site description and surrounding area

The planning proposal seeks to apply an affordable housing contribution levy on certain land identified within the Lismore Affordable Housing Contribution Scheme. The contribution levy applies to the land subject to an ‘upzoning’ and is to be applied to the gross residential floor area of new development that occurs on these sites.

The current draft scheme identifies three precincts to which the contribution will apply.

- Precinct 1: Various greenfield sites around the suburb of Goonellabah
- Precinct 2: Lot 1 DP570029 North Lismore Plateau
- Precinct 3: Various lots along the southern fringe of the Lismore urban area

The scheme sets a contribution rate of 10% of residential lots, monetary contribution or combination for Precinct areas 1 and 3 and 7% for Precinct 2.

These sites are identified within the Lismore Growth and Realignment Strategy (2022) as being potentially suitable for rezoning from rural to residential development. The sites will be subject to a future rezoning proposal and contributions will be calculated and levied at the development application stage. The sites are shown in Figure 1 to 4 below with the lot descriptions identified in Table 3.

Table 3 – Land to which the draft AHCS applies

Suburb	Parcel location	Lot details	Precinct
Goonellabah	Trinity Drive	Lot 2 DP1274220	1
Goonellabah	Trinity Drive	Lot 1 DP1274220	1
Goonellabah	Trinity Drive	Lot 1 DP584690	1
Goonellabah	Trinity Drive	Part Lot 3 DP1274220	1
Goonellabah	Trinity Drive	Part Lot 80 & 140 DP755718	1
Goonellabah	Lagoons Grass	Lot 212 DP755718	1
Goonellabah	Lagoons Grass	Lot 127 DP755718	1
Goonellabah	Lagoons Grass	Part Lot 2 DP708633, Lot 86 and 193 DP755718, Lot 1 DP772536, Lot 86 DP755718	1
Goonellabah	Lagoons Grass	Part Lot 5 DP562740	1
Goonellabah	Lagoons Grass	Part Lot 21 DP1169818	1
North Lismore	McLeay Road	Lot 1 DP570029	2
East Lismore	53 Barham St	Lot 2 DP1244032	3
East Lismore	20 King George Dr	Lot 14 DP778277	3
Monaltrie	1 Gundurimba Rd	Lot 1 DP24780 & Lot 3 DP805680	3
Goonellabah	221 Invercauld Rd	Lot 104 DP816880	3
Goonellabah	229 Invercauld Rd	Lot 17 DP788403	3
Monaltrie	49 Skyline Rd	Lot 11 DP602908	3
Monaltrie	94 Skyline Rd	Lot 3 DP583666	3
Goonellabah	249 Invercauld Rd	Lot 9 DP252856	3
Goonellabah	668 Skyline Rd	Lot 2 DP1103669	3
Goonellabah	164 Rous Rd	Lot 3 DP1176419	3

Suburb	Parcel location	Lot details	Precinct
Goonellabah	186 Rous Rd	Lot 101 DP592235	3
Goonellabah	198 Rous Rd	Lot 100 DP592235	3
Chilcotts Grass	123 Taylor Rd	Lots 23 & 29 DP704335, Lot 2 DP1185561	3

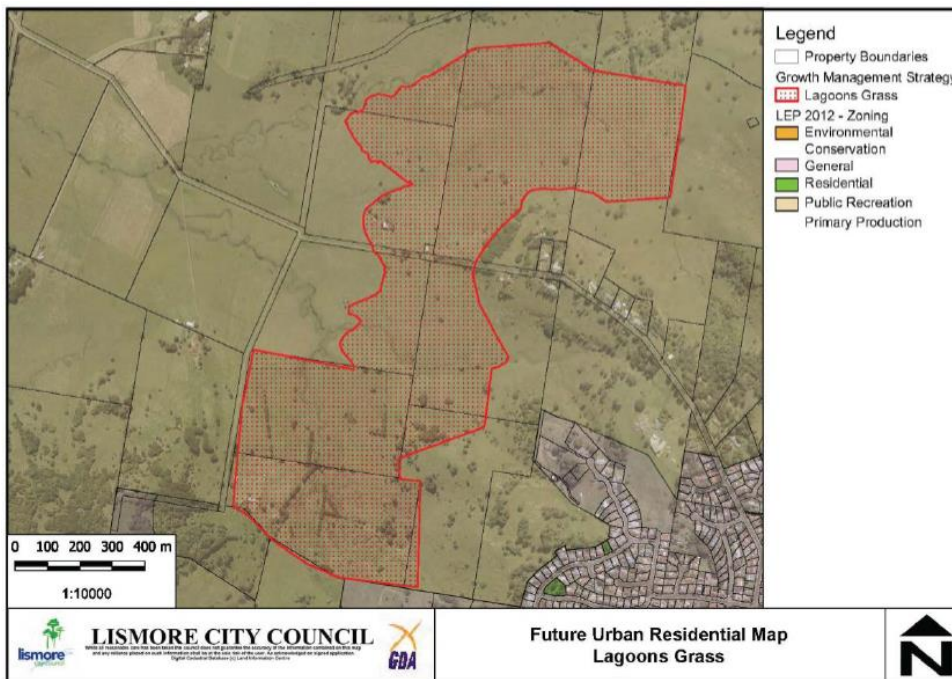


Figure 1: Precinct 1 Lagoons Grass (source: Planning Proposal)

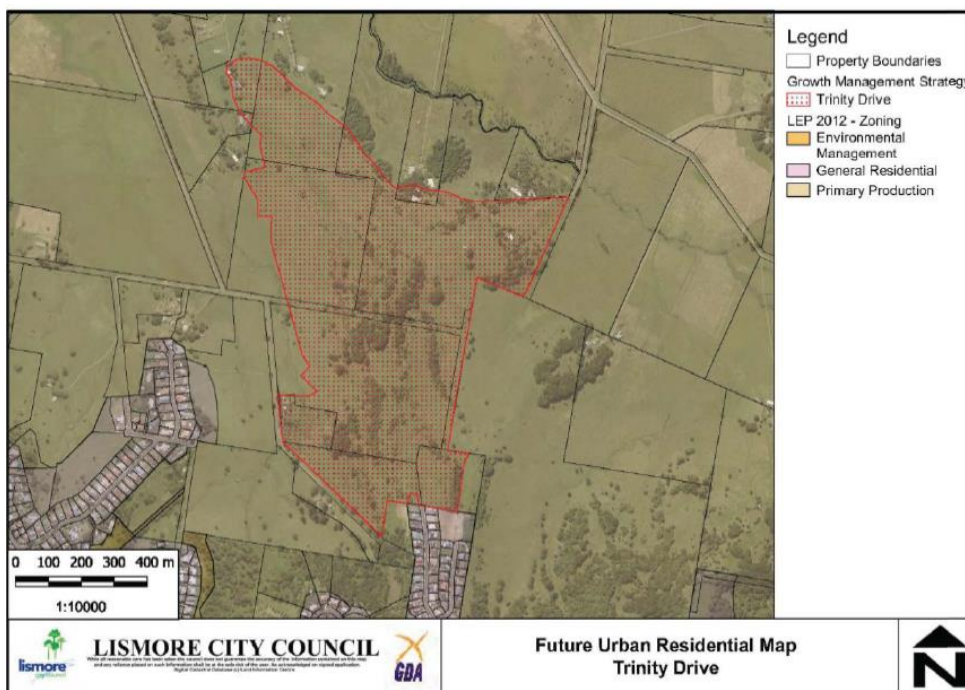


Figure 2: Precinct 1 Trinity Drive (source: Planning Proposal)

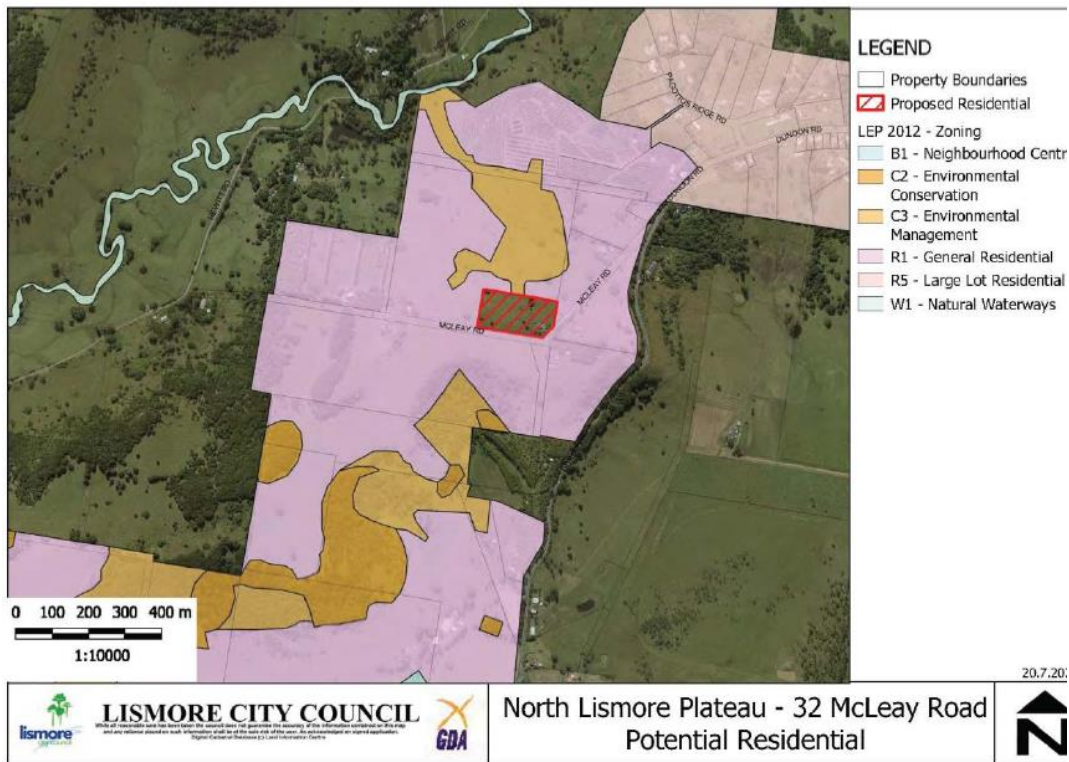


Figure 3: Precinct 2 North Lismore Plateau (source: Planning Proposal)

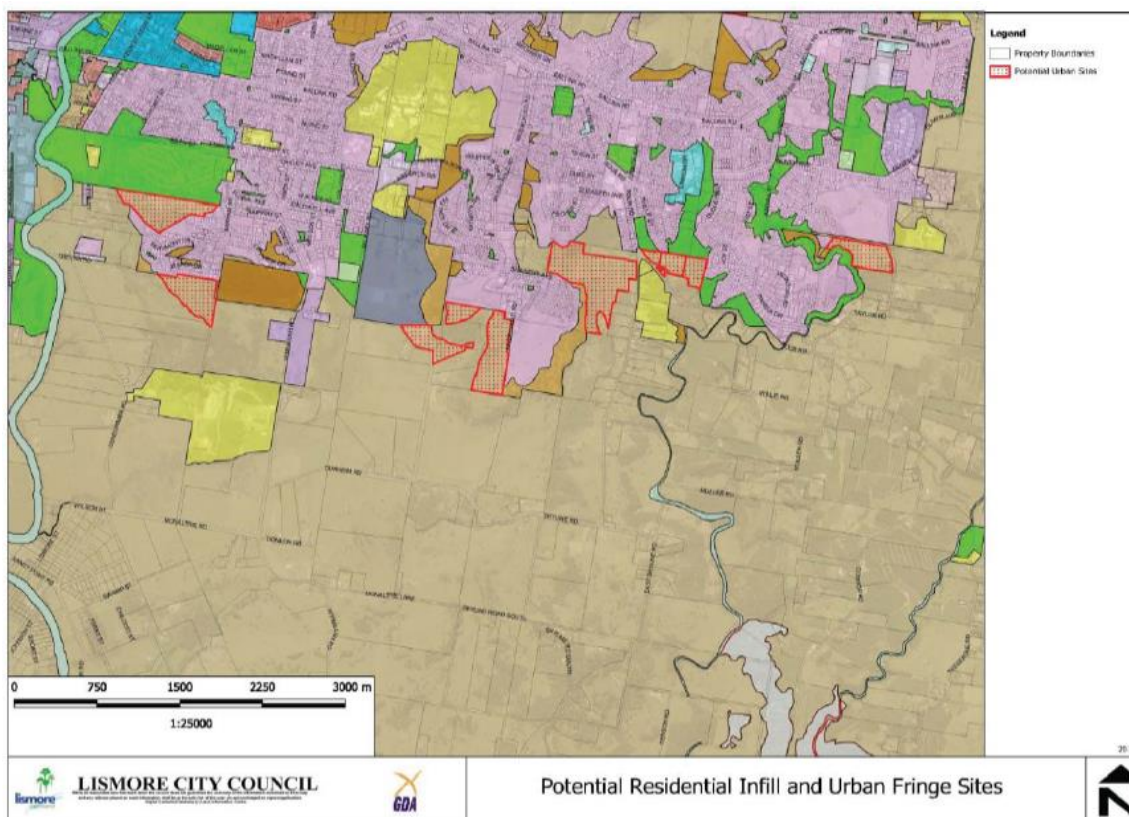


Figure 4: Precinct 3 Southern fringe sites (source: Planning Proposal)

Note: land on this map at 389 Keen St, East Lismore has already been zoned residential and therefore not subject to the Affordable Housing Contributions Scheme. It is not included in the proposed AHCS map shown below in Figure 5.

1.5 Mapping

The planning proposal seeks to introduce a map that identifies the areas to which the Lismore Affordable Housing Contribution Scheme will apply. The proposed map is shown in Figure 5. The planning proposal also includes scaled maps of the identified areas for clarification purposes (Figures 1 to 4).

It is noted that these sites reflect certain areas identified within the Lismore Growth and Realignment Strategy 2022. As noted above, Council will need to adopt the final Lismore Affordable Housing Contribution Scheme before the maps and the planning proposal can be finalised.

The maps within the planning proposal are suitable for community consultation.

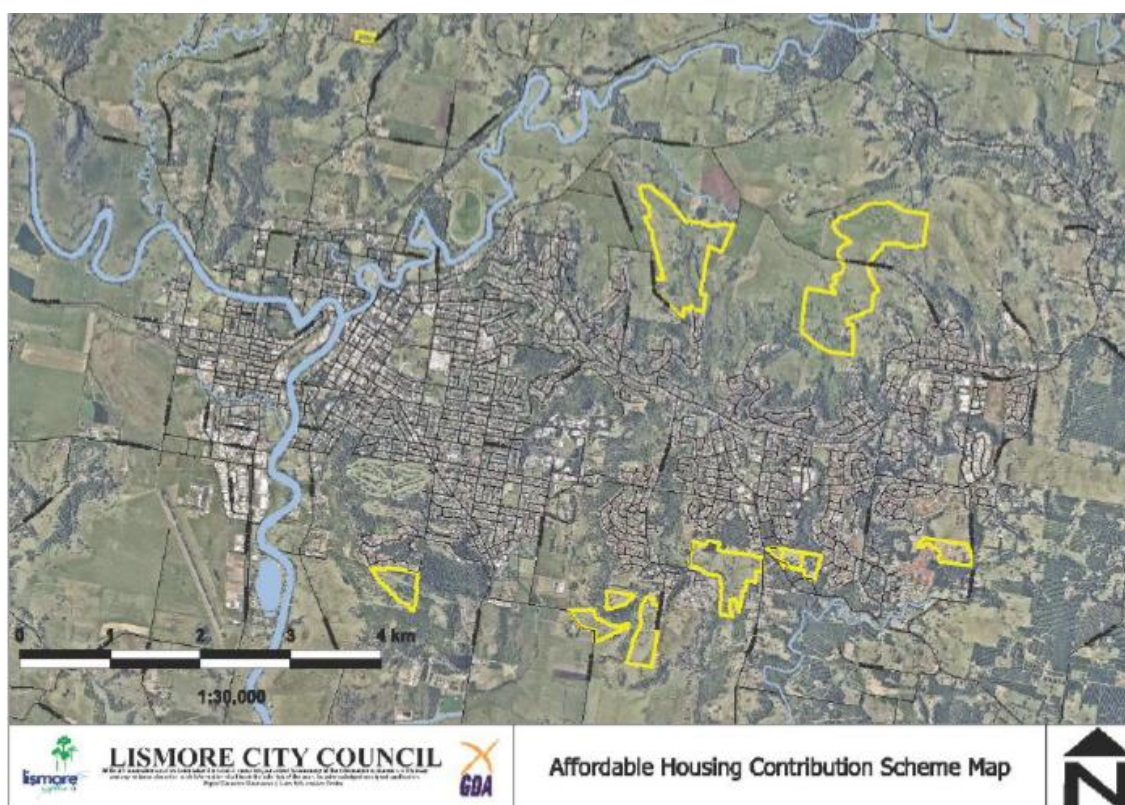


Figure 5: Proposed Affordable Housing Contribution Scheme Map

1.6 Background

Prior to lodgement of the planning proposal, Lismore Council submitted a draft version of the Affordable Housing Contribution Scheme to the Department for review.

The Department's Housing Policy team reviewed the draft scheme against the Department's *Guideline for Developing an Affordable Housing Contribution Scheme*. Comments were provided to Council and amendments have been made to the scheme that was then submitted with this planning proposal. On lodgement of the planning proposal, further review was provided by Housing

Policy who have recommended some additional changes to the scheme, primarily for clarification purposes. These are discussed further in section 3.2 of this report.

2 Need for the planning proposal

The *Environmental Planning and Assessment Act 1979* (the Act) enables councils to levy contributions for affordable housing. To achieve this, the Act requires need in an area to be identified in a state environmental planning policy. State Environmental Planning Policy (Housing) 2021 identifies that there is a need for affordable housing across the state, including Lismore.

Council can therefore seek to amend their LEP to have reference to an affordable rental housing contribution scheme and to levy affordable housing contributions.

Section 1.4 of the Scheme provides a detailed housing market analysis and demonstrates there is a significant demand for affordable housing and that the market will only be able to provide for approximately 15% of the future demand for affordable housing in the Lismore LGA.

The need for the planning proposal has been sufficiently addressed and the proposal is the best means of applying an affordable housing contribution scheme.

3 Strategic assessment

3.1 Regional Plan

The proposal is considered to be consistent with the North Coast Regional Plan 2041. The following table provides an assessment of the proposal against relevant aspects of the plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
2: Provide more affordable and low cost housing	The planning proposal seeks to introduce a scheme to collect contributions on certain residential development benefiting from an upzoning. The contribution will be used to provide for affordable housing within the Lismore LGA. Viability assessment has been undertaken to ensure the contributions will not make future development of these greenfield sites unviable. It is considered that this planning proposal is consistent with this objective and the North Coast Regional Plan 2041.

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 5 Local strategic planning assessment

Local Strategies	Justification
Lismore Local Strategic Planning Statement (LSPS) – Inspire Lismore 2040	Action A1.2 of the LSPS seeks to investigate the merits of an AHCS and associated LEP amendments. This planning proposal seeks to implement the AHCS.

Lismore Regional City Action Plan 2036	<p>The planning proposal aligns with the actions 1.1 and 1.2 within the Action Plan being:</p> <p>1.1 Encourage housing options that support social inclusion, including crisis accommodation, housing for seniors and persons with a disability, lone-person households and affordable living.</p> <p>1.2 Form partnerships to develop proposals that facilitate an increase in affordable and smaller forms of housing, higher density and community living options.</p>
Lismore Affordable and Diverse Housing Strategy	<p>The planning proposal confirms that the Affordable and Diverse Housing Strategy was adopted in March 2023 and provides the evidence base required to initiate the AHCS process. Action 14 of this strategy is to develop an AHCS.</p>
Lismore Growth and Realignment Strategy 2022	<p>The Growth and Realignment Strategy 2022 guides future urban growth and identifies land that may be suitable for future housing. The sites contained within the AHCS are identified within this strategy along with the preparation of an AHCS. The strategy was endorsed by the Department in June 2023.</p>
NSW Guidelines for Developing an AHCS	<p>The Department's guidelines advise council on how to develop and what should be included in an AHCS. The Guidelines require that an affordable housing contribution scheme sets out how, where, and at what rate development contributions can be collected by Council for affordable housing.</p> <p>The Department's Housing Policy team has provided guidance to Council in relation to the preparation of the draft AHCS. The planning proposal was referred to the Housing Policy team for comment following lodgement. They have advised that scheme can be supported for a Gateway determination, however provided several comments that are to be addressed as part of the Gateway process. Further discussion with Housing Policy team occurred on 3 April 2024 and the following amendments to the scheme were recommended:</p> <ul style="list-style-type: none"> • clarify the scheme's application to certain development types; • remove the affordable housing income and cost benchmarks as these will need to be updated annually to reflect CPI and would be better placed in a supporting policy; • remove the 30% premium from the scheme as it is not consistent with residual land value method outlined in the guidelines; • discuss why potential remediation of land has not been included in the feasibility assessment; and • clarify the contradiction in Precinct 1 that states the sites are comparable but also have significant variation. <p>These recommended amendments to the scheme will form conditions of the Gateway determination. It is also recommended a condition is included so that the revised scheme is reviewed by the Department prior to it being placed on public exhibition to confirm the changes address the comments from Housing Policy adequately. The required changes and approach have been discussed with Council staff who have raised no objection.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposals is considered to be consistent with all relevant section 9.1 Directions with the exceptions discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Planning for Bushfire Protection	No – Unresolved	This direction applies as parts of the sites identified within the AHCS may be mapped as bushfire prone land. This direction requires consultation with RFS to address any inconsistencies. The direction remains unresolved until consultation with RFS occurs.
9.2 Rural Lands	No – Justifiably inconsistent	This direction applies as sites identified within the AHCS affect land within a rural zone and the proposal is unable to satisfy all the requirements of this direction. The inconsistency is considered to be of minor significance as the planning proposal will not rezone or alter the development standards of any land identified within the AHCS. Site specific investigations will occur through the submission of a rezoning planning proposal for those lands at a later date.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPP	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Housing) 2021	The policy identifies the need for affordable housing throughout the state and sets out the formula for calculating contributions for affordable housing	Yes	<p>The planning proposal contains provisions to require new development on land identified within the draft AHCS to contribute towards affordable housing.</p> <p>The planning proposal and draft AHCS was reviewed by the Housing Policy team to ensure consistency with the guidelines and SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The planning proposal does not facilitate any change of land use or development and will not have any environmental impact.

4.2 Social and economic

The planning proposal will facilitate affordable housing through an affordable housing contribution scheme. Viability assessment has been undertaken as part of the scheme and concludes that residential development of the sites identified remains viable with the inclusion of an affordable housing contribution and it will not slow or deter future housing supply and delivery.

4.3 Infrastructure

The planning proposal will not directly result in the need for either local or state infrastructure. The need for infrastructure servicing will be considered under any future proposal for the rezoning of the land.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms the conditions of 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 30 working days to comment:

- NSW Rural Fire Service

6 Timeframe

Council proposes a 9 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 standard.

A 9-month LEP completion date from the date of the Gateway determination is recommended in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. 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.

As the planning proposal seeks to introduce an Affordable Housing Contribution Scheme, it is recommended that Council not be authorised to be the local plan-making authority for this proposal. This will ensure that the final version of the scheme can be reviewed and confirmed to be suitable and in accordance with the Department's guidelines when the LEP is made.

8 Assessment summary

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

- The proposal is consistent with the regional and local strategic plans;
- The proposal is generally consistent with the Department's Guideline for Developing an Affordable Housing Contribution Scheme; and
- The proposal will provide positive social outcomes by creating a mechanism to fund affordable housing within the Lismore LGA without limiting development viability.

Based on the assessment outlined in this report, the draft Lismore Affordable Housing Contributions Scheme is to be updated before consultation to:

- remove the affordable housing income and cost benchmarks as this will need to be updated annually to reflect CPI and would be better placed in a supporting policy;
- clarify the schemes application to:
 - Development for non-residential floorspace
 - Exempt development
 - Refurbishment or repair of buildings that result in residential floorspace less than 100sqm
 - Development for the purposes of community facilities, public roads or public utility undertakings
 - Secondary dwellings
 - Dual occupancies
- remove the 30% premium from the scheme as it is not consistent with residual land value method;
- discuss why remediation of agricultural lands has not been included in the feasibility assessment; and
- clarify the contradiction in Precinct 1 that states the sites are comparable but also have significant variation.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistency with section 9.1 Direction 9.2 Rural Lands is justified; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is 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 draft Lismore Affordable Housing Contribution Scheme is to be updated to:
 - remove the affordable housing income and cost benchmarks as this will need to be updated annually to reflect CPI and would be better placed in a supporting policy;
 - clarify the schemes application to:
 - Development for non-residential floorspace
 - Exempt development

- Refurbishment or repair of buildings that result in residential floorspace less than 100sqm
 - Development for the purposes of community facilities, public roads or public utility undertakings
 - Secondary dwellings
 - Dual occupancies
 - remove the 30% premium from the scheme as it is not consistent with residual land value method;
 - discuss why remediation of agricultural lands has not been included in the feasibility assessment; and
 - clarify the contradiction in Precinct 1 that states the sites are comparable but also have significant variation.
2. Prior to community consultation, the planning proposal and associated AHCS is to be revised to address condition 1 and forwarded to the Department for review and approval.
 3. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 4. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway does not authorise council to be the local plan-making authority. An LEP completion date of 9 months from the date of the Gateway determination is to be included on the Gateway.



11/4/24

(Signature)_____
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19/4/24

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