

Item 7 – Amend Rural Land Sharing Communities Provisions

Amend *Clause 6.8, Rural landsharing community development* and *Clause 6.8A Minimum subdivision lot size for rural landsharing community development* of the *Lismore Local Environmental Plan 2012* to change how land eligible for rural land sharing community development is identified and assessed.

Clause 6.8 currently applies where any part of a lot is identified as a “Potential Rural Landsharing Community Development Area” on the **Potential Rural Landsharing Community Development Map**. The clause enables development consent to be granted for three or more dwellings on an eligible lot where the requirements of the clause are satisfied.

The existing map was intended to identify potentially suitable land and exclude land affected by significant constraints, including flood and bushfire risk. However, the map has not been kept current and no longer reliably reflects contemporary flood, bushfire and other constraint information. Continued reliance on the map may therefore exclude otherwise suitable land or identify land where current constraints require further assessment.

Clause 6.8A currently applies only to land used for an approved rural land sharing community before the clause commenced. The proposed amendment will remove this temporal restriction so the community title pathway is available to future communities approved under the revised *Clause 6.8*, as well as existing approved communities.

The amendment will:

- remove the **Potential Rural Landsharing Community Development Map** from the *Lismore LEP 2012*;
- remove the map-based application test from *Clause 6.8*;
- limit rural land sharing community development to land in the **RU2 Rural Landscape** zone;
- retain development consent as the approval pathway;
- amend *Clause 6.8* to require the consent authority to consider current flood and bushfire constraints when assessing an application;
- retain or update the other suitability requirements applying to rural land-sharing community development;
- remove the existing limitation in *Clause 6.8A* which restricts community title subdivision to rural land sharing communities approved before the commencement of that clause;

- enable community title **subdivision** to be considered for both existing approved rural land sharing communities and future rural land sharing communities approved under *Clause 6.8*.

Replacing the outdated map with a zone-based provision will allow suitability to be assessed using current environmental and hazard information when a development application is made. The amendment will not make rural land-sharing community development permissible in the **RU1 Primary Production** zone or other zones.

The amendment establishes a planning and assessment pathway only. It does not approve a rural land-sharing community, determine the number or location of dwellings on a particular property, or endorse a subdivision or community title layout.

Subject to confirmation of the most appropriate statutory mechanism, this item is expected to amend the following components of *Lismore LEP 2012*:

- *Clause 6.8, Rural landsharing community development*;
- *Clause 6.8A, Minimum subdivision lot size for rural landsharing community development*;
- the **Potential Rural Landsharing Community Development Map**, which will be removed from the *LEP*;
- the **RU2 Rural Landscape Land Use Table**, if an amendment is required to support the operation of *Clause 6.8*;
- *Clause 1.7* or other map-related provisions, if required to remove references to the deleted map; and
- any related provisions concerning community title subdivision or existing lawful rural land-sharing communities.

Clause 6.8 will be amended to:

- apply only to land in **RU2 Rural Landscape** zone;
- remove the requirement for land to be identified on the **Potential Rural Landsharing Community Development Map**;
- require consideration of flood risk, including site access, evacuation and emergency-management implications;
- require consideration of bushfire risk, including access, asset protection, firefighting water supply and emergency response;
- retain consideration of agricultural impacts, land-use conflict, sewage management, scenic amenity, biodiversity, road access and service availability; and
- ensure the land is suitable for the scale and form of rural land-sharing community development proposed.

Clause 6.8A will be amended to:

- remove the restriction limiting its application to communities approved before the clause commenced; and
- retain development consent for community title subdivision.

The amendment will use existing Standard Instrument land-use and subdivision mechanisms where available. It will not introduce a new development standard beyond those already contained in the *Lismore LEP 2012*.

The amended provision will apply to land in the **RU2 Rural Landscape** zone under the *Lismore LEP 2012*.

This will include:

- existing land zoned **RU2**; and
- land proposed to be rezoned from **RU1 Primary Production** to **RU2 Rural Landscape** under **Item 5**.

The current **Potential Rural Landsharing Community Development Map** will no longer determine whether *Clause 6.8* applies.

Eligibility through the **RU2** zone will not create an automatic entitlement to establish a rural land-sharing community. Development consent will remain required, and the consent authority must be satisfied that the land is suitable having regard to flood risk, bushfire risk, agricultural capability, biodiversity, access, servicing, wastewater management, rural character and other relevant constraints.

The amendment will enable development applications for **rural land sharing communities** to be considered on land in the **RU2 Rural Landscape** zone.

The amended provisions are intended to ensure development consent may only be granted where the consent authority is satisfied:

- the land is in the **RU2 Rural Landscape** zone;
- the lot satisfies the applicable minimum area requirement;
- the scale and location of development are suitable for the land;
- flood risk to people, property, access and emergency services can be appropriately managed;
- bushfire risk can be appropriately managed, including through suitable access, asset protection and firefighting water supply;
- the development will not unreasonably impair agricultural use of the land or adjoining land;

- conflict with agriculture and other rural land uses is avoided or appropriately managed;
- safe and lawful vehicular access can be provided;
- adequate water supply, onsite wastewater, stormwater, waste and utility servicing can be provided;
- biodiversity, habitat and ecological connectivity are protected;
- scenic amenity and rural character are maintained; and
- the development will not create unreasonable or uneconomic demand for public infrastructure or services.

The amendment will replace reliance on a static eligibility map with assessment against current site-specific information. This will allow contemporary flood studies, bushfire-prone land mapping, biodiversity information and infrastructure evidence to be considered when an application is assessed.

The intended effect of the amendment is to:

- remove the historical commencement date restriction applying to community title **subdivision** under *Clause 6.8A*;
- provide an equivalent community title pathway for existing and future approved rural land sharing communities;
- provide a contemporary and transparent planning pathway for rural land sharing communities;
- remove reliance on a statutory eligibility map that no longer reflects current flood, bushfire and other constraint information;
- ensure land suitability is assessed using current site-specific hazard and environmental information;
- make flood and bushfire risk express considerations under *Clause 6.8*;
- allow potentially suitable **RU2** land to be considered on its merits rather than being excluded solely because it is outside an outdated mapped area;
- remove the ability to consider rural landsharing communities in the revised **RU1** zone;
- ensure development is avoided where flood or bushfire risk cannot be appropriately managed;
- protect productive agricultural land and minimise conflict with adjoining agricultural and rural activities;
- ensure safe access, appropriate servicing and effective emergency response;
- protect biodiversity, scenic amenity and rural character;

- retain opportunities for shared rural living and community title arrangements; and
- avoid unreasonable or uneconomic demand for public infrastructure and services.

The amendment does not represent a finding that all **RU2** land is suitable for rural land sharing community development. The **RU2** zone will establish where an application may be made, while *Clause 6.8* and the development assessment process will determine whether the particular land and proposed development are suitable.

The following consequential amendments may be required:

- remove the **Potential Rural Landsharing Community Development Map** and all references to it from the *Lismore LEP 2012*;
- align *Clause 6.8* with the **RU2 Land Use Table**;
- coordinate *Clause 6.8* with **community title** and **subdivision** provisions;
- restructure *Clause 6.8A* following the removal of its existing application provision;
- update the Lismore **Development Control Plan** to remove references to the deleted map; and
- update **DCP** controls for flood, bushfire, access, servicing, biodiversity and rural land use compatibility.

The current rural land sharing community **DCP** chapter relies on land being identified on the *LEP* map, so it will require amendment if the map is removed.