

Item: 12.2 **Ref:** AINT/2018/08060
Title: FOR DECISION: Planning Proposal for Draft Amendment No.11 to Armidale Dumaresq LEP 2012 **Container:** ARC16/0484
Author: Kayla Clanchy, Strategic Planner
Attachments: 1. Planning Proposal No. 11 - being 16 20 22 Madgwick Drive Armidale - amend Land Zone map and Lot Size map - ADLEP 2012

RECOMMENDATION:

- a) **That Planning Proposal No. 11 to amend Armidale Dumaresq Local Environmental Plan 2012, which proposes to:**
- **zone Lots 1, 2, and part 3 DP 1196907 at 16-22 Madgwick Drive, Armidale, from R2 Low Density Residential to R1 General Residential, and**
 - **alter the lot size standard for Lots 1, 2, and part 3 DP 1196907 from 4,000m² to 500m²,**
- be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, in accordance with section 3.34 of the *Environmental Planning and Assessment Act 1979*.**
- b) **That, subject to a Gateway Determination, a further report be provided to Council following public exhibition of Planning Proposal No. 11 to amend Armidale Dumaresq Local Environmental Plan 2012.**
- c) **That the proponent be advised of Council's resolution.**

Background:

Council has received a Planning Proposal – from one of the landowners of the land subject to the Proposal – to amend Armidale Dumaresq Local Environmental Plan 2012 (the 'LEP'). Lots 1, 2, and part 3 of DP 1196907 at 16-22 Madgwick Drive, Armidale, form the Site subject of the Planning Proposal. The area to which the Planning Proposal relates is shown below and in Figure 1 of the attached Planning Proposal (being Attachment A). That part of Lot 3 forming the Site is above the Flood Planning Level, hence the irregular shaped Site. The part of Lot 3 below the Flood Planning Level is excluded from the Site, and this area is not proposed to be rezoned or the minimum lot size amended.

The objective of the Planning Proposal is to allow for higher density residential development, including a greater variety of residential development types, than is currently permissible on the Site. This will be achieved by amending the LEP Land Zoning Map for the Site from R2 Low Density Residential to R1 General Residential, and by amending the LEP Lot Size Map applying to the Site, resulting in a minimum lot size reduction from 4,000m² to 500m². It is anticipated that the Planning Proposal will result in at least an additional 31 residential lots at the Site (subject to development consent).

This report recommends that the Planning Proposal, which has been submitted to Council and reviewed and edited by Council's Strategic Planning staff, be forwarded to the NSW Department of Planning and Environment (DPE) with a request for a Gateway Determination. Council will be seeking written authorisation from the DPE to use its local plan-making delegations, subject to the agreement of the Gateway, as the Planning Proposal is considered to be of local significance.



Land subject of Planning Proposal, as outlined in red.

Key Issues and Risks

Governance

LEPs are statutory documents and the preparation/amendment of an LEP must be in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and its Regulations. The Planning Proposal has been prepared with regard to Division 3.4 of the EP&A Act, *A Guide to Preparing Planning Proposals* and *A Guide to Preparing Local Environmental Plans* (August, 2016) issued by DPE.

Strategic planning framework

The Proposal is considered to be generally consistent with the following strategies/studies:

- *New England North West Regional Plan 2036* (August, 2017) by DPE, and
- *New England Development Strategy* (April, 2010) by WorleyParsons Ltd.

See the responses to Questions 3 and 4 of Attachment A for more details.

State policies and Ministerial directions

Questions 5 and 6 of the Planning Proposal consider whether the Planning Proposal is consistent with relevant State Environmental Planning Policies (statutory plans) and Ministerial Directions under section 9.1 of the EP&A Act 1979.

The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies and s9.1 Directions, except for Direction No. 1.3 “Mining, Petroleum Production and Extractive Industries”, as the proposed R1 zoning for the Site prohibits mining and extractive activities. However, mining and extractive industries are also prohibited under the current R2 zoning applying to the Site and the inconsistency between the Proposal and the Direction is considered to be of minor significance and therefore justified.

Flooding

The part of Lot 3 not included in the Proposal is flood prone land, per the *Armidale Flood Study Review and Update – Stage 3* (July 17, 2014) by BMT WBM Pty Ltd (the ‘Flood Study’). The Flood Study was adopted by Council on 28 September 2015. A consequent Floodplain Risk Management Study (FRMS) and Floodplain Risk Management Plan (FRMP) is yet to be prepared and adopted by Council.

Under the Planning Proposal the flood prone land is split zoned R2 Low Density Residential and E3 Environmental Management, and it is not proposed to rezone any of this land nor alter the minimum lot size control applying to this land. This is considered the most appropriate approach until such time as a FRMP has been prepared which recommends the most appropriate zonings of land below the flood planning level for the urban reaches of Dumaresq Creek.

Biodiversity

The Department’s *Biodiversity Values Map* (undated) identifies part of Lot 3 as containing land of potential biodiversity value. Figure 6 in Attachment A shows the extent of this identified land. The portion of land included in the statutory *Biodiversity Values Map* is not included in the Site subject to the Planning Proposal. There are no apparent biodiversity values relating to the Site.

Aboriginal cultural heritage

There is limited potential for Aboriginal objects or places of significance to be present, given the Site has been modified by way of dwellings being built at the Site, and ongoing hobby grazing. An archaeological assessment was undertaken in 2010. This Study found the Site contained no materials of archaeological significance (European or Aboriginal). The Study does acknowledge that the outskirts of Armidale – which would have included the Site many years ago – hold some cultural significance to the local Aboriginal community. The Site does not contain any listed Aboriginal sites or places, and no such sites or places are identified within 200m of the Site, per the *Aboriginal Heritage Information Management System* (AHIMS) web search undertaken March 19, 2018 (see p. 39 & 40 of Attachment A).

Proximity to New England Highway

The Site adjoins the New England Highway for the length of its western boundary. A noise assessment for the purposes of residential subdivision was prepared in 2010. The findings of that assessment have been used as an indication of the suitability of the Planning Proposal, with regards to traffic noise impacts. Broadly, it is anticipated that noise impacts can be mitigated at the development application stage through appropriate lot layout and dimensions, and dwelling orientation and placement (building envelopes).

There are established trees along the western boundary of the Site and in the New England Highway road reserve, which act as visual screens between the Site and the Highway (refer to images in Figure 4e of Attachment A).

Physical and social infrastructure

Adequate physical and social infrastructure is available, or can be made available, to serve future general residential development of the Site.

Integrated Planning and Reporting Framework

The *Community Strategic Plan 2017 – 2027* (the ‘CSP’) was originally adopted as the final CSP by Council on May 17, 2017. The Planning Proposal is considered to align with the following relevant Community Outcomes:

E1 – The unique climate, landscape and environment of the region is protected, preserved and made accessible.

G1 – The community experiences the benefits of an increasing population

G5 – The community has access to transport which enables connectivity both locally and outside of the region

P2 – Community programs, services and facilities meet the needs of the community and provide a safe place to live

Stakeholder Engagement

The review of the submitted Planning Proposal by Council’s Strategic Planning staff involved consultations with relevant Council staff.

Schedule 1 of the EP&A Act 1979 requires that Planning Proposals for LEPs be publicly exhibited for 28 days, or any other time period specified in the Gateway Determination issued by DPE. Details in the Gateway Determination will also instruct on the type of public exhibition required. At this time it is proposed to notify the Planning Proposal in a local Armidale newspaper and on Council’s website as well as in writing to adjoining landowners.

Given the attributes of the Site and the nature of the Proposal, it is not considered necessary to consult with government agencies. However, the decision as to whether agencies are to be consulted will be included in the requirements of the Gateway Determination.

Financial Implications

Clause 11 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation 2000) allows Council to enter into an agreement or arrangement with a person who requests the preparation of a Planning Proposal, for the payment of the costs and expenses incurred by Council in undertaking studies and other matters required in relation to the Planning Proposal. Council has entered into an agreement with the proponent (one of the landowners) for Planning Proposal No. 11, to pay for costs associated with preparing the Proposal in accordance with the Fee Schedule in Council’s Operational Plan 2017-2018.

Next Steps

The next step in progressing the Planning Proposal is to refer it to DPE with a request for a Gateway Determination.

Council will be seeking to use its local plan-making delegations, subject to the agreement of the Gateway, as the Planning Proposal is considered to be of local significance.

The Gateway Determination will specify any government agencies to be consulted, the terms of community consultation/public exhibition, and whether or not Council may exercise its local plan-making delegations. Once all of these matters have been addressed, a further report will be presented to Council advising on whether changes to the Planning Proposal are required, and whether the LEP amendment can proceed to be made.