

Item:	8.2	Ref: INT/2015/12581
Title:	Amendment No. 8 to Armidale Dumaresq LEP 2012	Container:
	A14/6545	
Author:	Manager Sustainability and Strategic Planning	
Attachments:	1. Planning Proposal No. 8 - August 2015	

RECOMMENDATION:

- (a) That the Planning Proposal for Draft Amendment No 8 to Armidale Dumaresq Local Environmental Plan 2012, which proposes to:
- rezone Lots 22-26 DP 1153858, Lots 27 & 28 DP 1156909 and Lot 1 DP 1147739 at 9, 11, 13-17 Madgwick Drive and 15 & 17 Cluny Road, Armidale, from R2 to R1 General Residential, and
 - alter the minimum lot size standard applying to Lots 22-26 DP 1153858, Lots 27 & 28 DP 1156909 and Lot 1 DP 1147739 at 9, 11, 13-17 Madgwick Drive and 15 & 17 Cluny Road, Armidale, from 4,000 square meters to 500 square metres
- and that these proposals be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, in accordance with the *Environmental Planning and Assessment Act 1979*.
- (b) That a further report be provided to Council after a Gateway Determination is issued and following public exhibition of the Planning Proposal for Draft Amendment No 8 to Armidale Dumaresq Local Environmental Plan 2012.
- (c) That the proponent be advised of Council's resolution.

GENERAL MANAGER'S ADVISORY NOTE TO:

Councillors

Applicant

Persons making public submissions (written or verbal) Members of the Public

Record (Division) of Voting

In accordance with Section 375A(3) of the Local Government Act 1993, a Division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

Relevant Planning Application

In accordance with Section 147(4) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant planning application to Council is required to disclose the following reportable political donations and gifts (if any) made by a person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:

- (a) All reportable political donation made to any local councillor of the Council;
- (b) All gifts made to any local councillor or employee of the Council.

Relevant Public Submission

In accordance with Section 147(5) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant public submission to Council in relation to a relevant planning

application made to the Council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submissions or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined:

- (a) All reportable political donations made to any local councillor of the Council;
- (b) All gifts to any local councillor or employee of the Council.

Disclosure of Reportable Political Donations and Gifts

Planning Applications - Nil

Public Submission - Nil

Introduction:

PROPOSAL: Planning Proposal to rezone land and alter minimum lot size standard

PROPERTY DESCRIPTION/ADDRESS: 9, 11, 13-17 Madgwick Drive and 15 & 17 Cluny Road, Armidale, being Lots 22-26 DP 1153858, Lots 27-28 DP 1156909 and Lot 1 DP 1147739.

Council has received a Planning Proposal to amend Armidale Dumaresq Local Environmental Plan 2012 (LEP 2012). The Planning Proposal has been prepared by the owner of 9, 11, 13-17 Madgwick Drive and 15 & 17 Cluny Road, Armidale. The objective of the Planning Proposal is to enable future residential subdivision of the land by rezoning the properties from R2 Low Density Residential to R1 General Residential and altering the minimum lot size standard for subdivision from 4,000m² to 500m².

While a Planning Proposal can be prepared by a developer, landowner or a consultant on behalf of a landowner, Council is responsible for the quality and accuracy of the information as well as the content of a Planning Proposal. The Planning Proposal has been reviewed by Council officers and certain changes have been made.

Council will be seeking to use its local plan making delegations as it is considered to be a type of LEP amendment that is routinely delegated to Councils by the Department of Environment and Planning (DP&E).

This Report recommends that the Planning Proposal prepared by the landowner and amended by Council be forwarded to DP&E with a request for a Gateway Determination.

[Note: A site inspection for Councillors will be arranged prior to the meeting.]

Report:

The first step in amending a local environmental plan (LEP) is preparing a Planning Proposal. Section 55(2) of the *Environmental Planning and Assessment Act 1979* (EPA Act) sets out the matters to be included in a Planning Proposal. A Planning Proposal can be prepared by a council, a landowner, developer or a third party on behalf of a landowner or council. Irrespective of who prepares a Planning Proposal, Council is responsible for ensuring that the information is accurate, current and sufficient for issuing a Gateway Determination and detailed enough for the purposes of consulting with agencies and the general community (*A Guide to Preparing Planning Proposals*, NSW Department of Planning and Infrastructure, 2012).

Planning Proposal No. 8

Council has received a Planning Proposal to amend LEP 2012. The Planning Proposal has been prepared by the owner of the land subject of the proposal, being 9, 11, 13-17 Madgwick Drive and 15 & 17 Cluny Road, Armidale (the Site). The proposed amendment comprises rezoning the Site from R2 Large Lot Residential to R1 General Residential and altering the minimum lot size standard for subdivision from 4,000m² to 500m². The Planning Proposal will enable future residential subdivision of the Site.

The Site currently comprises 8 lots with an area of approximately 4,000m² each. Allowing for existing dwellings on the Site and flood prone land along the watercourse and dam on the Site's western boundary, the Planning Proposal estimates that 13 additional residential lots could be created as a result of rezoning the land to R1 and reducing the minimum lot size standard to 500m².

The current R2 zoning of the Site came into effect with Armidale Dumaresq LEP 2008 (LEP 2008), which was based on the recommendations of the *Strategic Analysis for the Draft Armidale Dumaresq LEP 2005* (Armidale Dumaresq Council, 2005). The Strategic Analysis included a demand and supply analysis for residentially zoned land required up to 2021. LEP 2008 zoned sufficient residential and low density residential land in Armidale to provide for an estimated 1,940 new lots up to 2021. The new residential zones were carried through into LEP 2012.

The Site was identified in the 2005 Strategic Analysis as being suitable for low density residential development, mainly because at the time sewer was not available and the potential impact of the watercourse and dam located on the western side of the Site was relatively unknown. These matters were considered at the time to be potential constraints to more intensive residential development. However, in 2008 sewer was provided to the Site and in 2014 the *Armidale Flood Study Review and Update – Stage 3* (BMT WBM, 2014) extended the coverage of previous flood studies and identified the western side of the Site along the watercourse and dam as being below the Flood Planning Level. The extent of flooding is not considered a constraint to future residential development of most of the Site. It is considered that the initial constraints to zoning the land R1 in LEP 2008 have now been addressed.

The Planning Proposal submitted by the owner of the Site has been reviewed and changes made to ensure that relevant matters have been addressed in accordance with *A Guide to Preparing Planning Proposals*. None of the changes have affected the outcomes and objectives of the Planning Proposal as submitted by the owner.

A copy of Planning Proposal No. 8, which includes changes resulting from the review by Council officers, is in Attachment 1 to this Report.

Next step

Planning Proposal No. 8 be forwarded to the DP&E with a request for a Gateway Determination. In doing so, Council will be seeking to use its local plan making delegations as the proposal is considered to satisfy the following types of proposals routinely delegated to councils, as outlined in *A Guide to Preparing Planning Proposals*:

- LEPS which will result in a relaxation of a development standard on a site to promote development, including reduced minimum lot sizes
- Spot rezonings that will result in an upzoning of land in existing areas zoned for residential purposes.

Financial Implications:

Not applicable.

Environmental Implications:

The Planning Proposal recommends that a flora and fauna assessment of the Site be undertaken either as a result of the Gateway Determination or as part of a future development application to subdivide the land.

Policy Issues:

That part of the Site subject to flooding should be considered along with other flood prone land in Armidale when developing Council's Floodplain Risk Management Plan.

Social Implications:

The proposed R1 zoning will provide land for future residential development that may place some demand on existing facilities but due to the scale of future development this is likely to be limited. The land is in proximity to the University of New England, schools and recreational areas that can be accessed by pedestrians and/or cyclists. Other social infrastructure can be readily accessed by public transport (buses and taxis) and private vehicles.

The Planning Proposal recommends that an Aboriginal cultural heritage assessment of the Site be undertaken as a result of the Gateway Determination or as part of a future development application to subdivide the land as there is considered to be potential for Aboriginal objects or places to be present on the Site.

Integrated Planning and Reporting Issues:

By providing for new housing sites, the Planning Proposal is considered to support the following Strategic Objectives in Council's Community Strategic Plan 2013-2028:

- Support our local economy
- Develop and sustain the economic growth of the local government area.

Risk Management Issues:

The *Armidale Flood Study Review and Update – Stage 3* (BMT WBM, 2014) identified the western side of the Site along the watercourse and dam as being below the Flood Planning Level. Like the rest of the Site this land is zoned R2 and the Planning Proposal proposes to include the land in the R1 zone. The proposed measures for managing any risk associated with zoning the flood prone land to R1 are outlined below.

The *Armidale Flood Study Review and Update – Stage 3* was placed on public exhibition from 5 January 2015 to 6 March 2015 and following its adoption a Floodplain Risk Management Study and Floodplain Risk Management Plan (FRMP) will be prepared in accordance with the process outlined in the Floodplain Development Manual (NSW Government, 2005). The FRMP will include measures to manage and use flood prone land in Armidale, including land use planning controls that are likely to require changes to LEP 2012. It is intended to prepare a single LEP amendment that introduces flood planning controls for land in the Dumaresq Creek flood plain. By preparing a single LEP amendment an ad hoc approach to managing and using flood prone land in Armidale is very likely to be avoided. Any changes to the LEP provisions, including the R1 zoning, applying to the Site will be considered as part of the FRMP and be implemented through the single LEP amendment for flood prone land.

The FRMP is likely to be completed by the end of June 2016. In the intervening period, between the Site being zoned R1 and the single LEP amendment for flood prone land coming into effect, any development applications will be subject to the current provisions of the EPA Act and LEP 2012:

- Clause 6.2 *Flood Planning* in LEP 2012 applies to land below the Flood Planning Level. It seeks to minimise flood risks to life and property associated with the use of the land as well as avoiding significant adverse impacts on flood behaviour and the environment.

The Site has access available above the Flood Planning Level along the full length of its road frontages to Madgwick Drive and Cluny Road. There is also sufficient land available on the Site to provide for building envelopes above the Flood Planning Level. It is therefore considered that the impact of flooding on lot layout, appropriate building sites and the provision of flood free road and pedestrian access can be addressed as part of a development application for future development of the Site.

- Any development that involves works within 40m of the watercourse is likely to require a Controlled Activity Approval under the *Water Management Act 2000* and the development application would be subject to the provisions for integrated development under the EPA Act.

Legal Issues:

Preparation of an amending LEP must be in accordance with the EPA Act.