



***Planning Proposal No. 2 – Reclassification of Community land at 43-49
White Avenue and 1A The Boulevarde, Armidale***

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PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The intended outcome of the Planning Proposal is to enable the development of the following properties for residential development:

- Lot 20 DP 711016, 43-49 White Avenue, Armidale
- Lot 50 DP 732610, 1A The Boulevarde, Armidale.

The properties are:

- owned by Council and classified Community Land under the *Local Government Act 1993* (LG Act), and
- zoned R1 General Residential under Armidale Dumaresq Local Environmental Plan (LEP) 2012.

The locations and zonings of the properties are shown on the maps at Attachment 1.

PART 2 - EXPLANATION OF PROVISIONS

The intended outcome of the Planning Proposal is to be achieved by reclassifying the properties from Community to Operational pursuant to section 30 of the LG Act. Reclassification of 1A The Boulevarde will include discharging an interest applying to the land.

The reclassifications will be achieved by amending *Schedule 4 Classification and reclassification of public land* to Armidale Dumaresq LEP 2012 by including the properties in the following Parts of the Schedule:

- *Part 1 Land classified, or reclassified, as operational land – no interests changed.*
 - Lot 20 DP 711016, 43-49 White Avenue, Armidale
- *Part 2 Land classified, or reclassified, as operational land – interests changed.*
 - Lot 50 DP 732610, 1A The Boulevarde, Armidale.

PART 3 - JUSTIFICATION

Section A. Need for the planning proposal.

Q1. Is the planning proposal a result of any strategic study or report?

The *Armidale Dumaresq Council: Achieving Sustainable Infrastructure, Services and Finances* (Review Today Pty Ltd, 2009) Report contained a number of mitigating strategies to address Council's asset backlog.

One of the recommendations of the Report was for Council to look at selling excess public lands and applying the proceeds to the asset backlog, in particular roads. As part of that process Council identified 10 parcels of Community Land that could potentially be surplus land. Council wrote to all ratepayers seeking their comments on the identified parcels and relevant material was exhibited from 1 December 2011 to 31 January 2012. Council

received up to the closing date 7 petitions, 84 individual submissions and 38 standard letters. Two public forums were provided to allow submitters and members of the public to speak to their submissions.

During the process it was recognised that where Council had a section 94 development contributions plan and relevant lands were contributed as open space through these plans, then net monies raised from any future sale would need to be reinvested into parks and recreational purposes.

Council considered the issues raised in the submissions at its meeting on 28 May 2012 and decided (Minute No: 117/12) to include in an amending LEP process, the proposed reclassification of the following Community land:

- Lot 20 DP 711016, 43-49 White Avenue, Armidale
- Part of Lot 65 DP 253418, Part 15A Bona Vista Road, Armidale
- Lot 1 DP 203174, 17 Bona Vista Road, Armidale, and
- Lot 50 DP 732610, 1A The Boulevarde, Armidale.

Council subsequently resolved (Minute No. 124/13) at its meeting on 27 May 2013 not to reclassify or rezone Part of Lot 65 DP 253418, Part 15A Bona Vista Road and Lot 1 DP 203174, 17 Bona Vista Road, Armidale.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is considered the best means of achieving the intended outcome. A council has no power to sell, exchange or otherwise dispose of Community Land, unless it is for the purpose of enabling the land to become, or be added to, a Crown reserve or to land that is reserved or dedicated under the National Parks and Wildlife Act 1974. There are also restrictions on leasing or licensing Community Land under the LG Act. No such restrictions on the sale, lease or licensing of land apply to Operational Land. Under section 27 of the LG Act, public land may be reclassified from Community to Operational by a LEP.

Section B. Relationship to strategic planning framework.

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The *New England North West Strategic Regional Land Use Plan 2012* (SRLUP) represents the NSW State Government's proposed framework to support growth, protect the environment and respond to competing land uses, whilst preserving key regional values over the next 20 years.

Actions in the SRLUP that are relevant to the Planning Proposal and where Council is the lead agency are discussed below:

- *Infrastructure – LEPs are to ensure housing and employment development occurs in areas which can be appropriately serviced.* Existing infrastructure is available, or can be made available, to provide appropriate services for future residential development of land subject of this Planning Proposal.

- *Housing and settlement –*
 - *Local councils will prepare land and housing supply strategies that identify sufficient land to facilitate an adequate supply of appropriately located housing to meet identified demand.* Although a land and housing supply strategy has not been prepared since the SRLUP was released in September 2012, a demand and supply analysis of residential land in Armidale up to 2021 was undertaken and included in the *New England Development Strategy* (WorleyParsons, 2012) – refer to comments below in response to Q4.
 - *Local councils will zone land through their LEPs to ensure an adequate supply of land for residential development and to facilitate delivery of a range of housing types.* The land subject of the Planning Proposal is zoned R1 General Residential. The R1 General Residential zone permits with consent a range of housing types, including dwelling houses, dual occupancies, semi-detached dwellings and multi-unit dwellings.
 - *Local councils will ensure that new residential development makes a positive contribution to liveability and character by ensuring residential areas are planned in accordance with the settlement planning principles in the SRLUP.* The future residential development of the land subject of the Planning Proposal is considered to be consistent with the SRLUP's settlement planning principles, including:
 - The sites are within or adjoin the urban area of Armidale and are served, or capable of being served, with essential urban infrastructure, services and facilities.
 - Existing open space areas are within 400m of each property.
 - The suitability of the sites for future residential development has been considered based on known planning constraints. Future development may require specialist studies. For further information refer to responses in *Section C. Environmental, social and economic impact* of the Planning Proposal.
 - The sites adjoin existing residential areas and future development for residential purposes is unlikely to increase the potential for land use conflict with land needed for economic activities.
 - *Natural hazards and climate change – ensure that LEPs zone areas subject to natural hazards appropriately to reflect the risks associated with the hazard and limitations of the land.* The properties subject of the Planning Proposal are above the flood planning level (or probable maximum flood level) as determined by the Armidale Flood Study 2004 and Martins Gully Update 2011 and are not shown on the Bushfire Prone Land map certified by the Commissioner of the NSW Rural Fire Service.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

The *New England Development Strategy* (WorleyParsons, 2010) was prepared for Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils. The Strategy, which has a timeframe of up to 2032, outlines key land use policies and principles for the four council areas and provides the planning context for the preparation of LEP provisions. The Strategy informed preparation of LEP 2012.

The Strategy was adopted by the four councils and endorsed by the Director-General of the Department of Planning and Infrastructure.

Future residential development of the parcels of land subject of the Planning Proposal is considered to be consistent with the Strategy. The projected demand and supply for residential land used by the Strategy took into consideration existing vacant land already zoned residential, which included 43-49 White Avenue and 1A The Boulevard at the time.

Q5. Is the planning proposal consistent with applicable state environmental planning policies?

The Planning Proposal is consistent with applicable state environmental planning policies (refer to Attachment 4).

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

The Planning Proposal is consistent with applicable s117 Ministerial Directions, except for the following:

- 4.4 Planning for Bushfire Protection
- 6.2 Reserving Land for Public Purposes

Refer to Attachment 3 for further details, including reasons and justifications for any inconsistency.

Section C. Environmental, social and economic impact.

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no critical habitat on the properties subject of the Planning Proposal.

The *Armidale City Flora and Fauna Survey: A Report to the Armidale City Council* (C L Bale, G J White and S Debus, June 1996) does not identify threatened species, populations or ecological communities, or their habitats, being present on the properties subject of the Planning Proposal. It is considered unlikely that future residential development of the properties will impact adversely on threatened species, populations or ecological communities.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The suitability of the subject land for future residential development has been considered based on known planning constraints applying to each site. The following studies have been identified as being required in relation to the land, as either part of the Planning Proposal or to support a development application for future residential development of the land:

- 43-49 White Avenue, Armidale: noise assessment (land adjoins the Armidale bypass), and contaminated land assessment (adjoins land which may be potentially contaminated).
- 1A The Boulevarde, Armidale: spring affected (part of geotechnical assessment with any future development application).

The outcomes of these studies may affect the maximum potential lot yield for residential subdivision but are considered unlikely to prevent development of at least part of the properties.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The suitability of the land subject of the Planning Proposal for future residential development has been considered based on potential planning constraints applying to each site. It is proposed to carry out Aboriginal heritage assessments in order to identify whether there are Aboriginal heritage values applying to the properties.

Given the likely scale of any future residential development of the subject land, it is unlikely to adversely impact on existing social infrastructure such as the Armidale hospital and schools. The sites are mainly infill development and access to existing retail and commercial services will be similar to those of other residential developments in the respective localities.

Section D. State and Commonwealth interests

Q.10 Is there adequate public infrastructure for the planning proposal?

Future residential development of the properties subject of this Planning Proposal will be mainly infill development as the properties are within the Armidale urban area. Given the location and scale of any future development, it is unlikely to adversely impact on existing public transport, local road network, water and sewer, waste management and recycling services; or on health facilities, education establishments and emergency services infrastructure. Some works will be required to connect water and/or sewer services to each site. Adequate public infrastructure is either available, or is capable of being made available, to serve future residential development of the sites.

Q.11 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination?

The following identifies the State and Commonwealth agencies to be consulted and outlines the particular land use issues or site conditions which have triggered the need for the referral.

The preliminary views of State or Commonwealth agencies have not been obtained prior to preparing this Planning Proposal.

State or Commonwealth agency	Need for referral
NSW Office of Environment and Heritage	Depending on outcomes of Aboriginal heritage assessment of land subject of Planning Proposal.
NSW Rural Fire Service	Section 117 Direction 4.4 Planning for Bushfire Protection.
NSW Department of Planning and Infrastructure	Section 117 Direction 6.2 Reserving Land for Public Purposes.

Other. Classification and reclassification of public land

Q.12 Is the planning proposal the result of a strategic study or report?

Refer to response to Q1. in *Section A* of the Planning Proposal.

Q. 13 Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

The proposed reclassification of the parcels of land from Community to Operational will assist in achieving the following Strategic Goals in Council's Community Strategic Plan 2011-2026:

- *5P-10.1 – Council to achieve asset sustainability and be able to accommodate needs in asset growth.*
- *5I-2.1 – increased use of shared [recreation] infrastructure*
- *5G-6.2 - to have addressed Council's asset backlog.*

In relation to *Strategic Goal 5I-2.4 – Improve access to recreational facilities*, the proposed reclassification of the land and future disposal for residential development may affect accessibility to recreational facilities. However, the land subject of the Planning Proposal has not been fully utilised for recreational purposes to date and there are other public open space areas in the locality of each site (up to 400m away). Council has approximately 210 hectares of public lands (active parks 43% and passive parks 53%). The area of lands to be reclassified is 1.52 hectares, which represents 0.7% of lands held for public recreation in Armidale Dumaresq.

Council is also considering developing all or part of one of the sites for the purposes of providing affordable housing. This is consistent with *Strategic Goal 5P-3.4 Develop opportunities for low cost housing*.

Q.14 If the provisions of the planning proposal include the extinguishment of interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided.

Table A identifies any interests in the land subject of the proposed reclassification and which interests are proposed to be extinguished.

It is proposed to extinguish the interests (caveats by the Register General) for 1A The Boulevard, as identified in Table A in order to allow future residential development of these sites.

Table A. Interests to be extinguished

Property	Interest	Interest to be extinguished?
Lot 20 DP 711016, 43-49 White Avenue, Armidale	BK 2936 NO 715 COVENANT - a covenant on the land which was recorded in July 1969 between the then owners (not Council) and the Commissioner of Main Roads whereby access was denied to the Armidale bypass.	No
Lot 50 DP 732610, 1A The Boulevard, Armidale	K200000P - Caveat by the Register General forbidding unauthorised dealings with public reserves.	Yes

Q.15 The concurrence of the landowner, where the land is not owned by the relevant planning authority.

All of the land subject of the reclassification from Community to Operational is owned by Armidale Dumaresq Council.

PART 4 – MAPPING

Relevant mapping is included in Attachment 1 to the Planning Proposal:

- Land subject of the Planning Proposal (aerial photographs)
- Current land use zones applying to the land
- Current minimum lot size standards applying to the land.

PART 5 –COMMUNITY CONSULTATION

The proposed community consultation to be undertaken comprises:

- Public exhibition - public exhibition of the Planning Proposal for 28 days, entailing notification:
 - in a newspaper circulating in Armidale,
 - on Council's website, and
 - in writing to adjoining landowners.

Public exhibition of the Planning Proposal will be carried out in accordance with the requirements of the EPA Act, EPA Regulations and the Gateway determination.

- Public hearing – a public hearing will be conducted following the public exhibition period in accordance with section 57 of the EPA Act and section 29 of the LG Act. Notice of the public

hearing will be given after the public exhibition period and at least 21 days before the date of the hearing.

The Department of Planning and Infrastructure Practice Note *PN 09-003: Classification and reclassification of public land through a local environmental plan* includes the general requirements for exhibition of a Planning Proposal to reclassify public land. Material which addresses the general requirements will be exhibited with the Planning Proposal.

PART 6 – PROJECT TIMELINE

The anticipated project timeline for completion of the Planning Proposal is outlined in Table B.

Table B. Project Timeline

Task	Anticipated timeframe
Date of Gateway Determination.	By 31 July 2013
Completion of required technical information, studies if required.	By mid-August 2013
Government agency consultation (pre exhibition as required by Gateway Determination).	By 30 August 2013
Any changes that may be required to the Planning Proposal resulting from technical studies and government agency consultations. Resubmit altered Planning Proposal to Gateway panel. Revised Gateway determination issued, if required.	By 30 September 2013
Commencement and completion dates for public exhibition.	3-31 October 2013
Dates for public hearing.	28 & 29 November 2013
Consideration of submissions, report from public hearing and Planning Proposal post exhibition.	Council meeting 16 December 2013
Date of submission of proposal to Department to finalise the LEP. Note: Council is not seeking plan making delegations.	23 December 2013

ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL – LOCATION, ZONING, LOT SIZE STANDARD

43-49 White Avenue, Armidale

Location

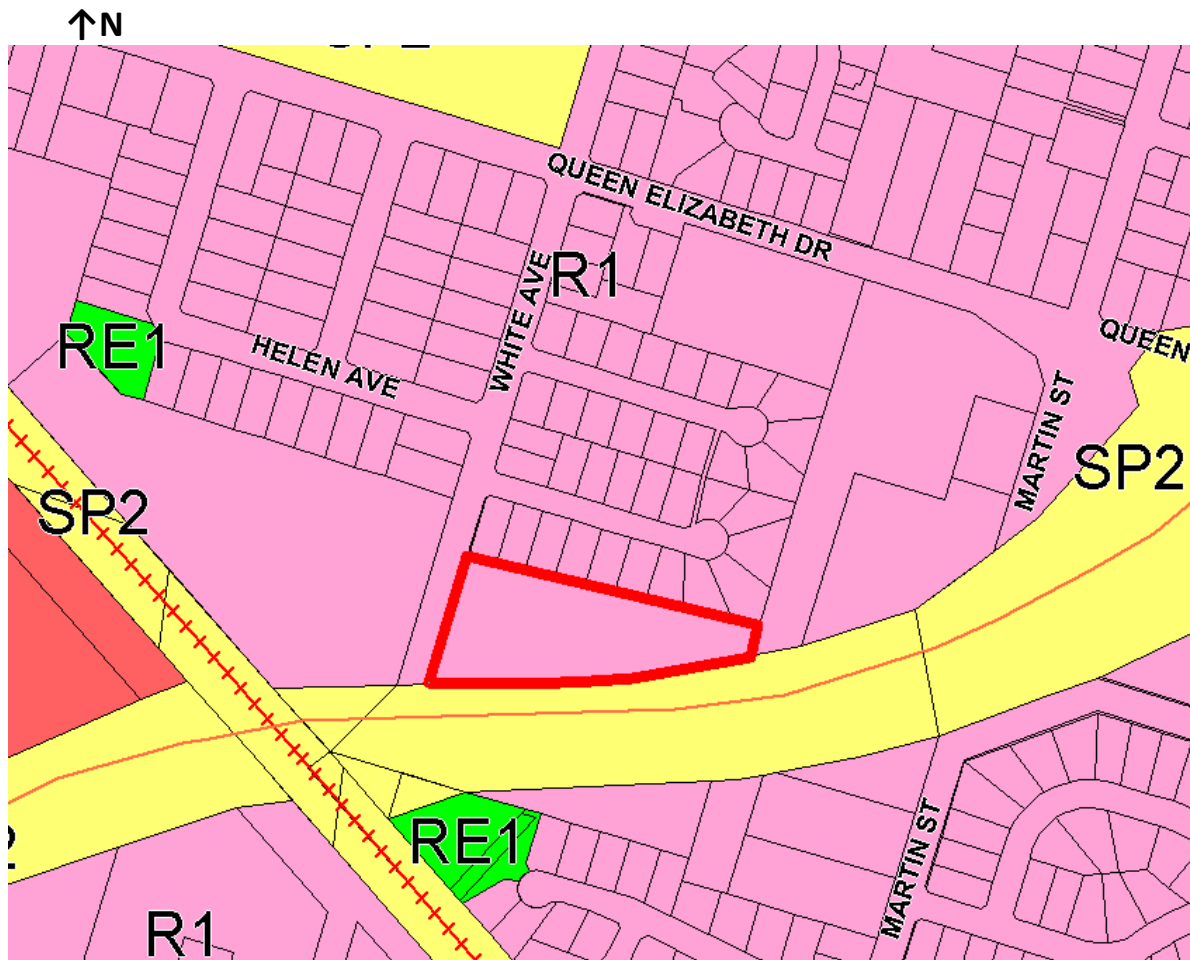


Area = 10,970m²

**ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL– LOCATION, ZONING, LOT SIZE
STANDARD, continued**

43-49 White Avenue, Armidale

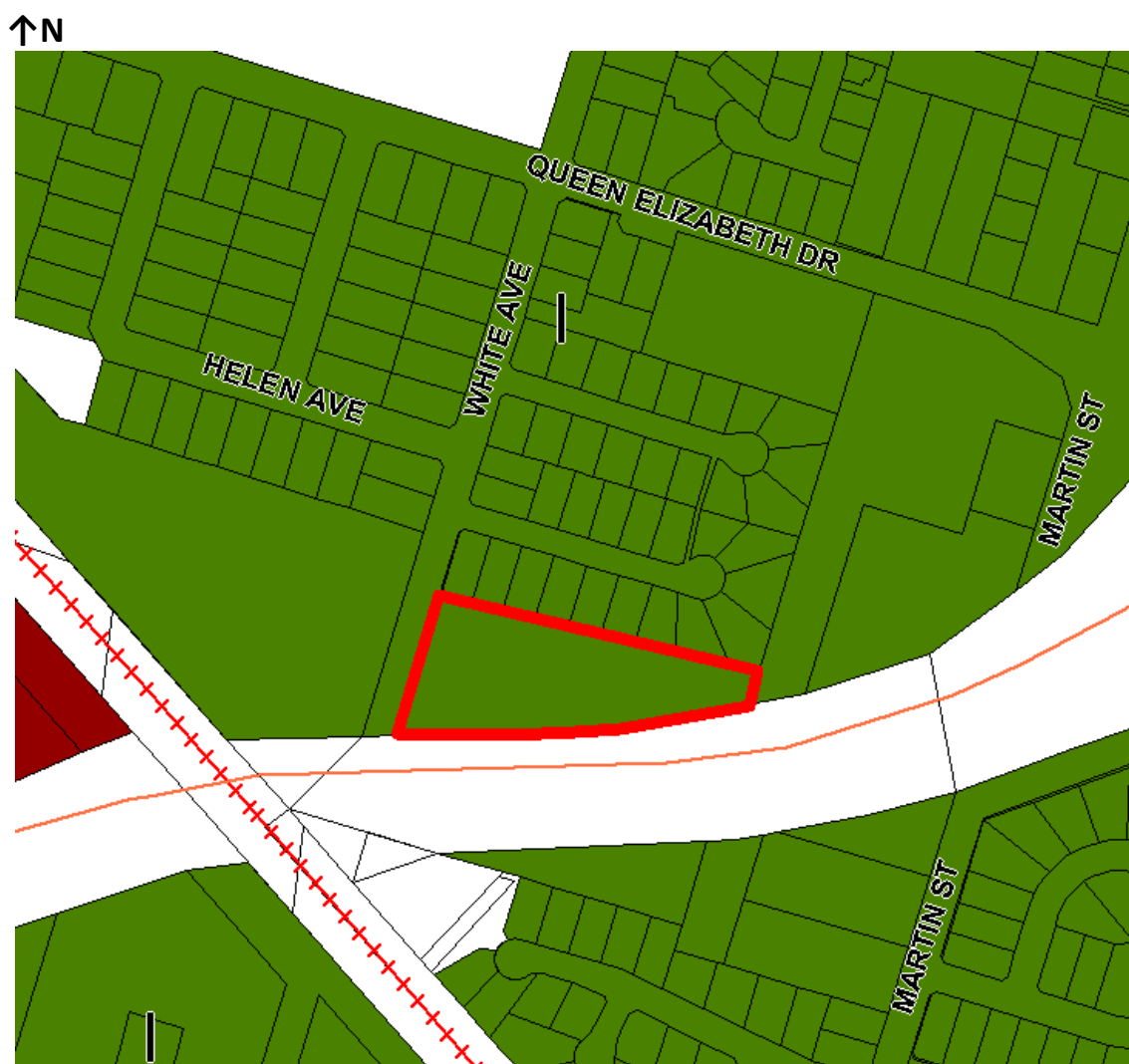
Zoning: R1 General Residential, Armidale Dumaresq LEP 2012



ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL– LOCATION, ZONING, LOT SIZE STANDARD, continued

 43-49 White Avenue, Armidale

Lot Size: I (500m²), Armidale Dumaresq LEP 2012



**ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL– LOCATION, ZONING, LOT SIZE
STANDARD, continued**

1A The Boulevard, Armidale

Location

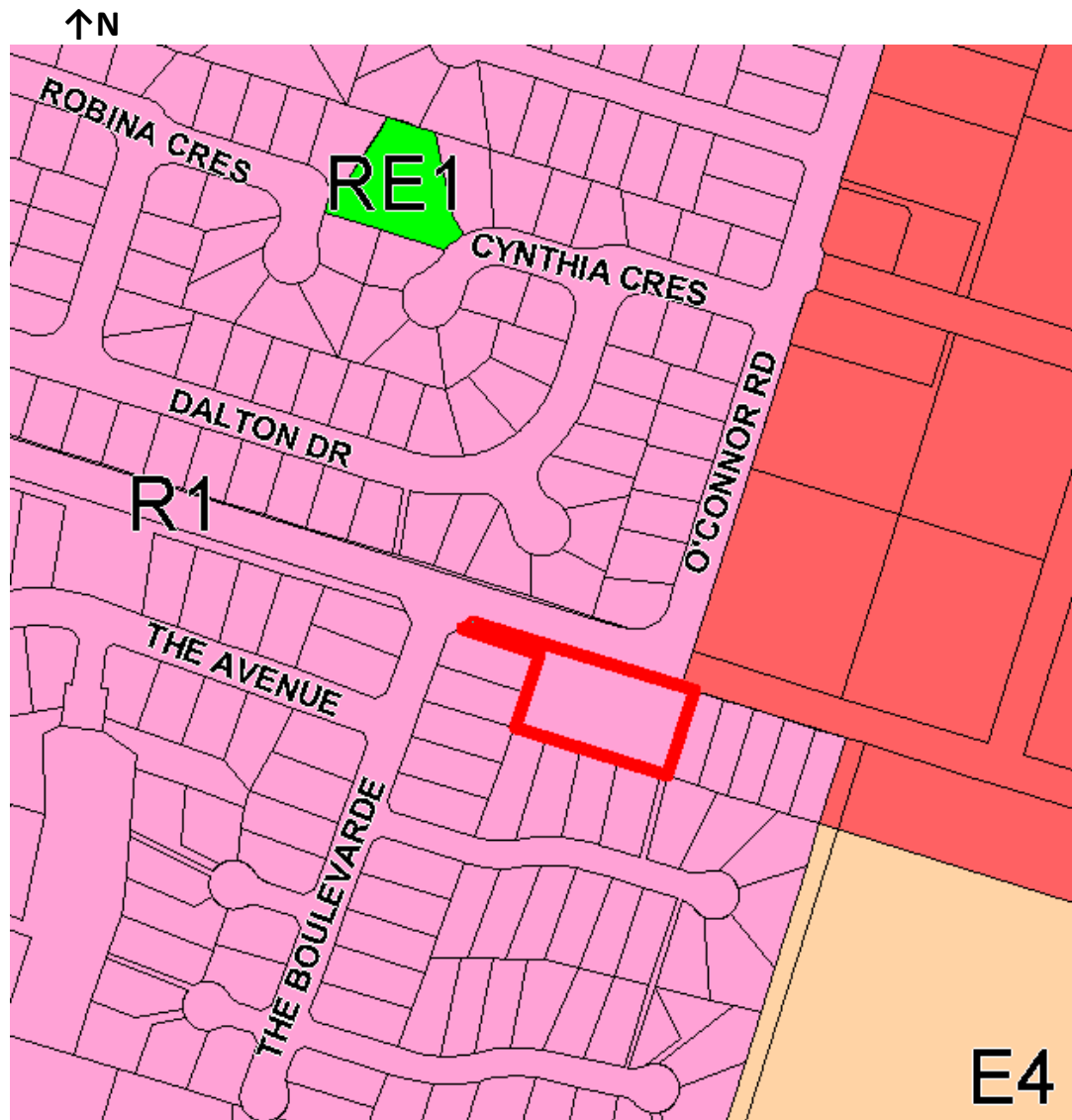


Area = 4,226m²

**ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL– LOCATION, ZONING, LOT SIZE
STANDARD, continued**

☐ 1A The Boulevard, Armidale

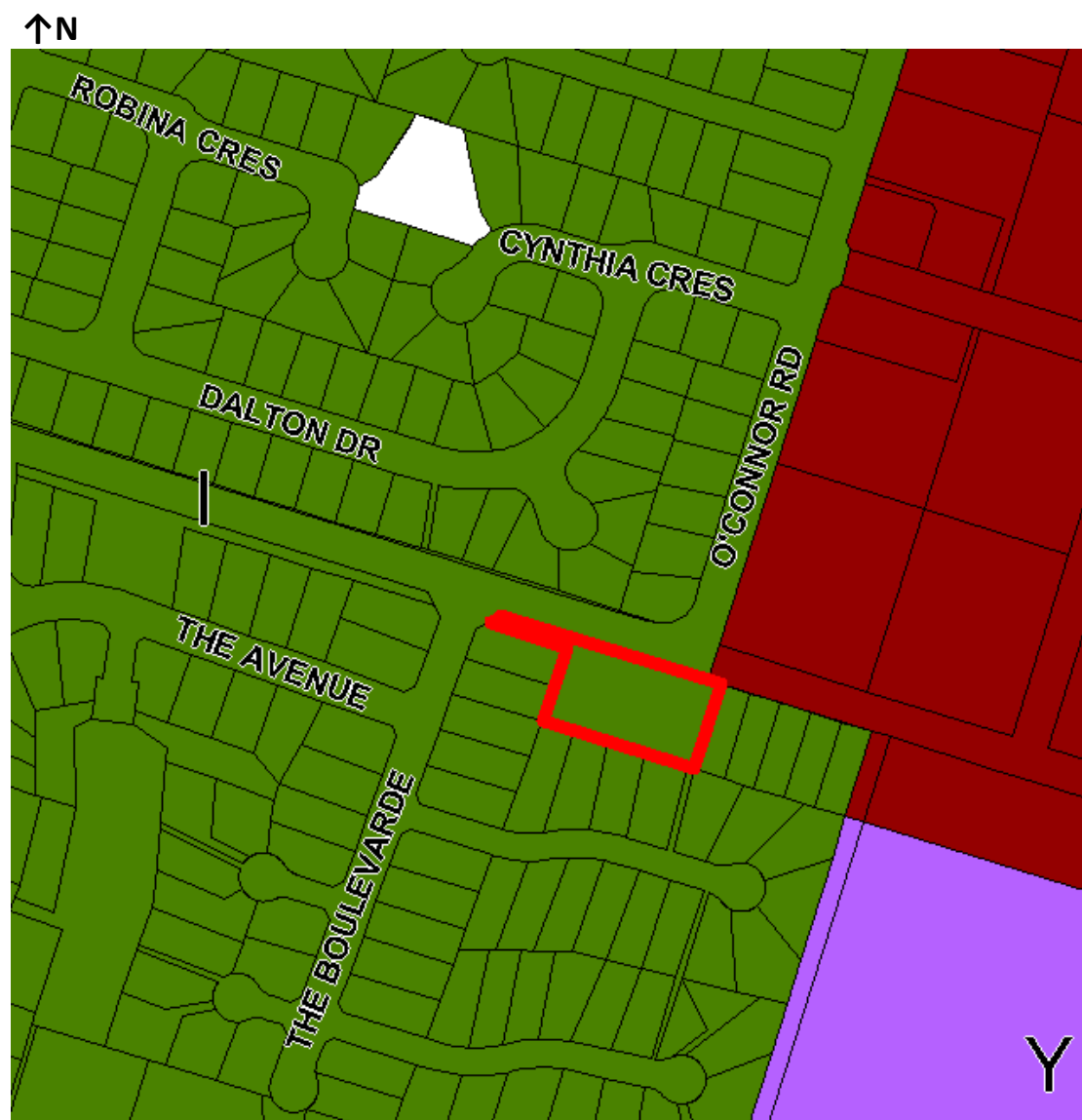
Zoning: R1 General Residential, Armidale Dumaresq LEP 2012



**ATTACHMENT 1: LAND SUBJECT OF PLANNING PROPOSAL– LOCATION, ZONING, LOT SIZE
STANDARD, continued**

☐ 1A The Boulevard, Armidale

Lot Size: I (500m²), Armidale Dumaresq LEP 2012



ATTACHMENT 2: APPLICABLE STATE ENVIRONMENTAL PLANNING POLICIES

SEPP	Applicable	Consistent	Comment
No. 21 Caravan Parks	Yes.	Yes.	Caravan parks are permitted with consent on land within the R1 General Residential zone.
No. 32 Urban Land Consolidation (Redevelopment of Urban Land)	Yes.	Yes.	Consistent with the SEPP's aims and objectives.
No. 36 Manufactured Home Estates	Yes.	Yes.	Permitted with consent on land within R1 General Residential zone.
No. 44 Koala Habitat Protection	Yes.	Yes.	
No. 55 Remediation of Land	Yes.	Yes.	None of the sites have been identified by Council's planning constraints information as having been used for a purpose in Table 1 of the Contaminated Land Planning Guidelines.
No. 64 Advertising and Signage	Yes.	Yes.	Signage, except for advertisements, permitted with consent in R1 General Residential zone.
No. 65 Design Quality of Residential Flat Development	Yes.	Yes.	Residential flat buildings permitted with consent in R1 General Residential zone.
Housing for Seniors or People with a Disability 2004	Yes.	Yes.	Applies to land in R1 General Residential zone.
Building Sustainability Index: BASIX 2004	Yes.	Yes.	Applies to residential development.
Mining, Petroleum Production and Extractive Industries 2007	Yes.	Yes.	Note: SEPP prevails to the extent of any inconsistency with another environmental planning instrument. Armidale Dumaresq LEP 2012 prohibits open cut mining and extractive industries in R1 General Residential zone.
Temporary Structures 2007	Yes.	Yes.	
Infrastructure 2007	Yes	Yes	Permits certain infrastructure and services in R1 General Residential zone.
Exempt and Complying Development Codes 2008	Yes	Yes	Codes apply to residential development.
Affordable Rental Housing 2009	Yes.	Yes.	Types of affordable rental housing permitted in R1 General Residential zone.
SEPP (State and Regional Development) 2011	Yes.	Yes.	

ATTACHMENT 3: APPLICABLE MINISTERIAL DIRECTIONS (SECTION 117 DIRECTIONS)

2. Environment and Heritage

Direction	Applicable	Consistent	Reason for inconsistency
2.1 Environment Protection Zones	Yes.	Yes.	
2.3 Heritage Conservation	Yes.	Yes.	
2.4 Recreation Vehicle Areas	Yes.	Yes.	

3. Housing, Infrastructure and Urban Development

Direction	Applicable	Consistent	Reason for inconsistency
3.1 Residential Zones	Yes.	Yes.	
3.2 Caravan Parks and Manufactured Home Estates	Yes.	Yes.	
3.3 Home Occupations	Yes.	Yes.	
3.4 Integrating Land Use and Transport	Yes.	Yes.	

4. Hazard and Risk

Direction	Applicable	Consistent	Reason for inconsistency
4.4 Planning for Bushfire Protection	Yes.	No.	1A The Boulevard and 43-49 White Avenue are approximately 110m and 750m, respectively, from Bush Fire Prone land as shown on the map under section 146 of EPA Act. It is proposed to consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination.

**ATTACHMENT 3: APPLICABLE MINISTERIAL DIRECTIONS (SECTION 117 DIRECTIONS),
continued**

6. Local Plan Making

Direction	Applicable	Consistent	Reason for inconsistency
6.1 Approval and Referral Requirements	Yes.	Yes.	
6.2 Reserving Land for Public Purposes	Yes.	No.	While the Title for Lot 50 DP 732610, 1A The Boulevarde, does not identify the land as 'Public Reserve' it does include the Caveat by the Register General forbidding unauthorised dealings with public reserves. The deposited plan DP 732610 identifies Lot 50 as 'Public Reserve' and in the statement of intention on the DP 'It is intended to dedicate Lot 50 to the public as public reserve'. The Planning Proposal will reduce existing Council owned land for public purposes by reclassifying the land to Operational to allow future residential development. The reason for the inconsistency is that the approval of the Director-General of the Department of Planning (or nominated officer of the Department) is required.
6.3 Site Specific Provisions	Yes.	Yes.	