

PLANNING PROPOSAL

COMPONENT A

REMOVE RELEASE AREAS IN RURAL FRINGE 1(c) ZONE

Prepared by

ARMIDALE DUMARESQ COUNCIL

PART 1 – OBJECTIVES OR INTENDED OUTCOMES OF THE PROPOSED LEP

The objective of the Planning Proposal is to remove the provisions for the staged release of land for large lot residential development on land within the Rural Fringe 1(c) zone in Armidale Dumaresq Local Environmental Plan 2008.

The intended outcome is to permit, with consent, large lot residential subdivision of all land within the Rural Fringe 1(c) zone.

PART 2 - EXPLANATION OF PROVISIONS TO BE INCLUDED IN THE PROPOSED LEP

The objective(s) or intended outcome(s) of the Planning Proposal are to be achieved by:

- amending clause 16(6)(c) of Armidale Dumaresq LEP 2008 by removing the following underlined words from clause 16(6)(c):

Clause 16(6)(c) “Consent may be granted to subdivide land in this zone so as to create a lot with an area of less than 40 hectares, in the area shown with blue cross hatching on the map, if:

- (i) the lot to be created by the subdivision is, or will be, connected to a reticulated water supply, and
 - (ii) if the lot is not connected to a reticulated sewerage system the area of the lot is at least 2 hectares, or, if the lot is to be connected to a reticulated sewerage system the area of the lot is at least 1 hectare.”
- Amending the map for Armidale Dumaresq LEP 2008 by removing the blue cross hatching overlay in the Rural Fringe 1(c) zone.

The land subject of the Planning Proposal is shown on the map at Attachment 1.

PART 3 - JUSTIFICATION

A. NEED FOR THE PLANNING PROPOSAL.

A1. Is the Planning Proposal a result of any strategic study or report?

The Planning Proposal is in response to a request from an owner of land within the Rural Fringe 1(c) zone that the first release areas in the Rural Fringe 1(c) zone, that are shown with blue cross hatching on the LEP map, be removed from Armidale Dumaresq LEP 2008.

While the Planning Proposal is not the direct result of a strategic study or report, it is consistent with the recommendations of the New England Development Strategy which will inform the regionally based LEP(s) to be prepared for Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils. The new LEP(s) will be based on the Standard Instrument and replace current LEPs applying to the four council areas.

A2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Removing the provisions for the release of land within the Rural Fringe 1(c) zone is considered the best means of achieving the intended outcomes.

An alternative approach of retaining a land release program but varying the location of release areas within the Rural Fringe 1(c) zone is not likely to achieve better outcomes than removing staged land releases altogether. Varying the location of release areas raises issues associated with identifying those land owners who genuinely wish to subdivide their land within the short to medium term and determining whether land already in the first release areas should be retained or removed.

Removing staged land releases in the Rural Fringe 1(c) zone could be postponed to the commencement of the regionally based LEP(s). However, the regional LEP(s) is unlikely to be in place for 12 to 18 months and, given the lack of subdivision development in the release areas to date, it is not considered appropriate to further delay removal of these release areas from Council's LEP.

A3. Is there a net community benefit?

The Planning Proposal is compatible with the regional strategic direction in the New England Development Strategy. The Planning Proposal will increase the supply of land available for large lot residential development by removing provisions in Armidale Dumaresq LEP 2008 for staged land releases. Increasing supply in the short term may improve housing affordability and in so doing have a community benefit.

B. RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK.

B1. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

The New England Development Strategy (Strategy) has been prepared to inform preparation of LEP(s) for Armidale Dumaresq, Uralla Shire, Guyra Shire and Walcha Councils. The Strategy was adopted by the four Councils at their meetings in April or May 2009, including some changes that were made in response to issues raised during the public exhibition process. The Director-General of the Department of Planning endorsed the final Strategy on 16 March 2010.

The current Rural Fringe 1(c) zone in Armidale Dumaresq LEP 2008 is 'equivalent' to the Large Lot Residential zone in the Standard Instrument and, therefore, the Strategy uses the latter term to describe this type of development.

The Planning Proposal is considered to be consistent with the Zoning Recommendation in the Strategy (page 57) to 'implement the provisions of Armidale Dumaresq LEP 2008, except for the release areas in the Large Lot Residential zone'. The demand for large lot residential development up to 2021 is expected to be fully met by the two corridors to the north and south of Armidale which are currently zoned Rural Fringe 1(c). After that supply has been taken up, the Strategy identifies land to the west of Armidale as being suitable for large lot residential development.

The justification provided in the Strategy for removing the staged release of land includes:

- Since gazettal of Armidale Dumaresq LEP 2008 on 15 February 2008, no new large lot residential subdivisions have been approved. (Note: since the Strategy was finalised and adopted by the four Councils, consent has been granted for a development application for subdivision of land within the first release area which has resulted in one additional lot with a dwelling entitlement).
- An alternative approach of retaining a land release program but varying the location of release areas within the Rural Fringe 1(c) zone is not likely to achieve better outcomes than removing staged land releases altogether. Varying the location of release areas raises issues associated with identifying those land owners who genuinely wish to subdivide their land within the next 10 years and determining whether land already in the first release areas should be retained or removed.
- Regional centres such as Armidale do not experience consistent growth pressures. Development of land does not always occur in an 'orderly' and predictable way and an LEP needs to be flexible enough to allow for these less predictable development patterns.
- The Rural Fringe 1(c) zone in Armidale Dumaresq LEP 2008 is significantly smaller in area and concentrated in terms of location, compared to what was previously permitted in the semi-rural areas surrounding Armidale up to the late 1990's.

- If there is not a reasonable bank of vacant but zoned land available for large lot residential development, then the market may be less competitive and this type of development becomes generally less affordable.

B2. Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Council is in the process of preparing its Community Strategic Plan which is to be completed by June 2011.

B3. Is the Planning Proposal consistent with applicable state environmental planning policies?

The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies (refer to Appendix A).

B4. Is the Planning Proposal consistent with applicable Ministerial Directions (s. 117 directions)?

The Planning Proposal is considered to be inconsistent with the following Ministerial Directions:

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.5 Development Near Licensed Airports.

The extent to which the Planning Proposal is inconsistent with Directions 2.1 and 2.3 is considered to be of minor significance for the reasons outlined in Appendix B. In relation to Directions 3.1 and 3.5, the Planning Proposal is justified by the recommendations of the New England Development Strategy. Refer to Appendix B for details.

Direction 4.4 Planning for Bushfire Protection requires that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway Determination.

C. ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT.

C1. 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?

Land within the Rural Fringe 1(c) zone does not include critical habitat, although it does include native vegetation. It is not feasible to carry out an assessment of significance in accordance with section 5A of the Environmental Planning and Assessment Act 1979 for all land within the Rural Fringe 1(c) zone.

The affect of subdivisions on threatened species, populations or ecological communities, or their habitats that may be present will need to be addressed as part of a development application for subdivision. This is the current approach to other types of development which are currently permitted in the Rural Fringe 1(c) zone.

C2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Given the area involved it is not feasible to carry out detailed environmental investigations for all of the land in the Rural Fringe 1(c) zone. Consequently these studies are required to accompany development applications for subdivision proposals. Clause 16(6)(d) of Armidale Dumaresq LEP 2008 requires that matters such as soil erosion and sedimentation, disposal of effluent, land capability, access, potential conflict with agricultural operations on surrounding land, Aboriginal heritage values, and potential land contamination are satisfactorily addressed prior to Council granting consent to a large lot residential subdivision.

C3. How has the planning proposal adequately addressed any social and economic effects?

Social and economic effects which may need to be considered as part of any proposal to carry out large lot residential subdivision in the Rural Fringe 1(c) zone include Aboriginal cultural heritage. Clause 16(6)(d) of Armidale Dumaresq LEP 2008 requires that Aboriginal heritage values are satisfactorily addressed as part of a proposed large lot residential subdivision prior to granting development consent.

D. STATE AND COMMONWEALTH INTERESTS.

D1. Is there adequate public infrastructure for the planning proposal?

The main types of public infrastructure required for large lot residential subdivision in the Rural Fringe 1(c) zone are sealed road connections to Armidale and connection to a reticulated water supply.

Generally land within the Rural Fringe 1(c) zone has good road connections to Armidale. Where existing road infrastructure is not sufficient, development must comply with Council's requirements, which are included in Armidale Dumaresq Development Control Plan 2007: Chapter D4 – Development in Rural and Rural Residential Zones Code.

In terms of Council's reticulated water supply there is sufficient capacity in reservoirs but additional infrastructure like pumping stations, service reservoirs and pressure boosting systems, may be required depending on the individual circumstances. The cost of providing additional infrastructure may need to be met by the developer in most instances.

The removal of staged land releases is unlikely to create an additional demand for essential services such as health, education and emergency services as there will be no overall increase in the supply of land for large lot residential up to 2021.

D2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?

To be completed following consultation with State and Commonwealth Authorities that may be identified in the Gateway Determination.

PART 4 – COMMUNITY CONSULTATION THAT IS TO BE UNDERTAKEN

The proposal will be exhibited for 28 days.

Notice of the public exhibition will be given:

- In the Council's news page of the local Armidale Extra and Armidale Independent newspapers.
- On Council's web-site at www.armidale.gov.au

Appendix A: Consideration of State Environmental Planning Policies

The following SEPP's apply to the Armidale Dumaresq local government area, as at 10/6/2010

SEPP	Applicable	Consistent	Reason for inconsistency
No. 1 Development Standards	Yes	Yes	
No. 4 Development Without Consent and Miscellaneous Exempt and Complying Development	No	Not applicable	
No. 6 Number of Storeys in a Building	No	Not applicable	
No. 15 Rural Landsharing Communities	Yes	Yes	
No. 21 Caravan Parks	No	Not applicable	
No. 22 Shops and Commercial Premises	No	Not applicable	
No. 30 Intensive Agriculture	No	Not applicable	
No. 32 Urban Land Consolidation (Redevelopment of Urban Land)	No	Not applicable	
No. 33 Hazardous and Offensive Development	No	Not applicable	
No. 36 Manufactured Home Estates	No	Not applicable	
No. 44 Koala Habitat Protection	Yes	Yes	
No. 50 Canal Estate Development	No	Not applicable	
No. 55 Remediation of Land	Yes	Yes	
No. 62 Sustainable Aquaculture	No	Not applicable	
No. 64 Advertising and Signage	No	Not applicable	
No. 65 Design Quality of Residential Flat Development	No	Not applicable	
Housing for Seniors or People with a Disability 2004	Yes	Yes	
Building Sustainability Index: BASIX 2004	Yes	Yes	
Major Development 2005	No	Not applicable	
Mining, Petroleum Production and Extractive Industries 2007	Yes	Yes	
Temporary Structures 2007	No	Not applicable	
Infrastructure 2007	Yes	Yes	
Rural Lands 2008	Yes	Yes	
Exempt and Complying Development Codes 2008	Yes	Yes	
Affordable Rental Housing 2009	Yes	Yes	

Appendix B: Consideration of Section 117 Ministerial Directions

1. Employment and Resources

Direction	Applicable	Consistent	Reason for inconsistency
1.1 Business and Industrial Zones	No	Not applicable	
1.2 Rural Zones	No*	Not applicable	
1.3 Mining, Petroleum Production and Extractive Industries	Yes	Yes	
1.4 Oyster Aquaculture	No	Not applicable	
1.5 Rural Lands	No*	Not applicable.	

* The Rural Fringe 1(c) zone is considered to be equivalent to the Large Lot Residential R5 zone in the Standard Instrument.

2. Environment and Heritage

Direction	Applicable	Consistent	Reason for inconsistency
2.1 Environment Protection Zones	Yes	No	See below.
2.2 Coastal Protection	No	Not applicable	
2.3 Heritage Conservation	Yes	No	See below.
2.4 Recreation Vehicle Areas	Yes	Yes	

Reasons for inconsistency and justification:

2.1 Environment Protection Zones

The Planning Proposal does not include provisions that facilitate the protection and conservation of environmentally sensitive areas and in this respect the inconsistency with Section 117 Direction 2.1 is considered to be of minor significance.

2.3 Heritage Conservation

The Planning Proposal does not include provisions that facilitate heritage conservation and in this respect the inconsistency with Section 117 Direction 2.3 is considered to be of minor significance.

3. Housing, Infrastructure and Urban Development

Direction	Applicable	Consistent	Reason for inconsistency
3.1 Residential Zones	Yes	No	See below.
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	
3.5 Development Near Licensed Aerodromes	Yes	No	See below.

Reasons for inconsistency and justification:

3.1 Residential Zones

The Planning Proposal does not include provisions in accordance with part (4)(c) of the Direction which encourage the provision of housing that will reduce the consumption of land for housing and associated urban development on the urban fringe. However, the Planning Proposal is justified by the recommendations of the New England Development Strategy and, therefore, complies with part (6)(a) of the Direction.

3.5 Development Near Licensed Aerodromes

The Planning Proposal alters a provision relating to land in the vicinity of Armidale Regional Airport. Part of the Rural Fringe 1(c) zone west of Armidale is within the Airport Buffer zone under Armidale Dumaresq LEP 2008. In preparing the Planning Proposal Council has not consulted with the Department of the Commonwealth responsible for aerodromes, in accordance with part (4)(a) of the Direction. However, the Planning Proposal is justified by the recommendations of the New England Development Strategy and, therefore, is considered to comply with part (7)(a) of the Direction.

4. Hazard and Risk

Direction	Applicable	Consistent	Reason for inconsistency
4.1 Acid Sulfate Soils	No	Not applicable	
4.2 Mine Subsidence and Unstable Land	No	Not applicable	
4.3 Flood Prone Land	No	Not applicable	
4.4 Planning for Bushfire Protection	Yes	Yes	See below

4.4 Planning for Bushfire Protection

Some areas within the Rural Fringe 1(c) zone are shown as bushfire prone land on Council's Bush Fire Prone Land Map, certified by the Commissioner of the NSW Rural Fire Service on 26 August 2008. Part (4) of the Direction requires that Council consult with the Commissioner of the NSW Fire Service following receipt of a Gateway Determination.

5. Regional Planning

Direction	Applicable	Consistent	Reason for inconsistency
5.1 Implementation of Regional Strategies	No	Not applicable	
5.2 Sydney Drinking Water Catchments	No	Not applicable	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	Not applicable	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	Not applicable	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	Not applicable	
5.8 Second Sydney Airport: Badgerys Creek	No	Not applicable	

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	Yes	
6.3 Site Specific Provisions	No	Not applicable	

7. Metropolitan Planning

Direction	Applicable	Consistent	Reason for inconsistency
7.1 Implementation of the Metropolitan Strategy	No	Not applicable	