

Armidale Dumaresq LEP 2012 - Amendment No 10 - Kurrawatha Avenue, Armidale

Proposal Title : **Armidale Dumaresq LEP 2012 - Amendment No 10 - Kurrawatha Avenue, Armidale**

Proposal Summary : **The proposal seeks to rezone Lots 661 & 662 DP 755808, Lot 2 DP 1213220 & Lot 1 DP 1129031, Kurrawatha Avenue, Armidale from R5 Large Lot Residential to part R2 Low Density Residential and part E4 Environmental Living and amend the minimum lot size for the land to be rezoned R2 from 2ha to 4000m2 for the purpose of residential development.**

PP Number : **PP_2016_AREGI_001_00** Dop File No : **16/14441**

Proposal Details

Date Planning Proposal Received : **08-Nov-2016** LGA covered : **Armidale Regional**

Region : **Northern** RPA : **Armidale Regional Council**

State Electorate : **NORTHERN TABLELANDS** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Kurrawatha Avenue**

Suburb : City : **Armidale** Postcode : **2350**

Land Parcel : **Lots 661 & 662 DP 755808, Lot 2 DP 1213220 & Lot 1 DP1129031**

DoP Planning Officer Contact Details

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RPA Contact Details

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Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **N/A** Consistent with Strategy : **N/A**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	11.34	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	21
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :	The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	Yes		
If Yes, comment :	The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal to make a zoning and minimum lot size change for the subject land under Armidale Dumaresq LEP 2012.**

Explanation of provisions provided - s55(2)(b)Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended changes to Armidale Dumaresq LEP 2012.**

Justification - s55 (2)(c)a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
3.1 Residential Zones
3.5 Development Near Licensed Aerodromes
4.3 Flood Prone Land

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

e) List any other matters that need to be considered :

An assessment of the applicable directions and SEPP's is provided within the 'Assessment' section of this planning team report.

Council have indicated that they believe the planning proposal is consistent with all applicable SEPP's.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **See the 'Assessment' section of this planning team report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The Planning Proposal has included maps that show the locality and the current and proposed zonings and minimum lot size standards applying to the land. Before these maps can be used for exhibition purposes however, they will need to be amended to correct mistakes relating to the colour used for the R5 large Lot Residential zone and the absence of the zone name and MLS areas in the legends of all relevant maps. Once corrected, these maps are considered adequate for exhibition purposes.

Revised maps which comply with the Department's 'Standard Technical Requirements for LEP Maps' will be needed prior to the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The Planning Proposal has indicated a 28 day timeframe for community consultation. As the subject land is not identified in a local strategy for low density residential purposes, this timeframe is considered appropriate to provide extra opportunity for the local community to view and comment on the proposal.

It is understood that Council intends to consult with the following authorities:

- * Commonwealth Department responsible for aerodromes;**
- * Office of Environment and Heritage; and**
- * DPI (Water).**

This is considered to be appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:

- 1. Providing appropriate objectives and intended outcomes;**
- 2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;**
- 3. Providing an adequate justification for the proposal;**
- 4. Outlining a proposed community consultation program; and**
- 5. Providing a project time line.**

Council is seeking an authorisation to exercise its plan making delegations. As the proposal deals with only matters of local significance, it is recommended that an authorisation to exercise plan making delegations be issued to Council in regard to this matter.

The RPA has provided a project timeline which estimates that the LEP will be ready for notification in early May 2017. This timeframe has however assumed a start date of late November effectively giving only five (5) months for the draft LEP to be made. As this timeline incorporates the Christmas period, a longer timeframe is recommended to ensure an adequate period for finalisation. A nine (9) month timeframe is therefore recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Armidale Dumaresq LEP 2012 was notified on 30 November 2012.**

Assessment Criteria

Need for planning proposal :

The aim of the Planning Proposal is for the following purpose:

*** rezone Lots 661 & 662 DP 755808, Lot 1 DP 1129031 & Lot 2 DP 1213220, 48-72 Kurrawatha Avenue, Armidale from R5 Large Lot Residential to part R2 Low Density Residential and part E4 Environmental Living; and**

*** alter the minimum lot size (MLS) for Lots 661 & 662 DP 755808, Lot 2 DP 1213220 and part Lot 1 DP 1129031 from 2ha to 4000m² (it must be noted that Armidale Dumaresq LEP 2012 clause 4.1 (4A) currently permits with consent the subdivision of the subject land to create lots of 1ha in areas where each lot is or will be serviced by a water reticulation system and sewerage system. The lots the subject of the planning proposal are able to be connected to these systems).**

The subject land is approximately 12.5ha. It is proposed that 11.34ha will be rezoned from R5 to R2 to facilitate low density residential development and 1.16ha from R5 to E4. The proposed E4 zoned portion of the site incorporates a flood planning area and as such will protect riparian values and a Ribbon-Gum woodland endangered ecological community.

It is anticipated that the potential rezoning will result in the creation of approximately 21 low density residential lots.

As the site contains an endangered ecological community, an threatened species assessment was carried out by '3e environmental engineering and energy'. This assessment concluded the following:

*** Two threatened fauna species were observed near the site and two are considered likely to occur at the site;**

*** Koala habitation is not present at the site and therefore SEPP 44 does not apply;**

*** No threatened flora species were recorded at the site although two species may occur;**

*** Two threatened ecological communities occur on the site; and**

*** The application of a 7-part test under section 5A of the EP&A Act found that the threatened species likely to occur on the site are unlikely to be significantly impacted by the proposed development.**

The subject land also lies within the 'Airport Buffer Area' identified on the Airport Buffer Map under Armidale Dumaresq LEP 2012. The land is located approximately 1060m from Armidale Airport. Council has confirmed that the site is able to be developed for residential purposes without penetrating the obstacle Limitation Surface and is also not located in an area where the ANEF exceeds 20 (development must not be located on land

where the ANEF exceeds 20 unless it complies with AS 2021 regarding interior noise levels).

Consistency with strategic planning framework :

Whilst no Regional Strategies apply to the Armidale Regional LGA, the New England North West Strategic Regional Land Use Plan (SRLUP) does apply. The majority of the subject land is mapped as strategic agricultural land in the SRLUP based on estimated fertility and land soil capability. Whilst the Planning Proposal is not consistent with the strategy in regards to the protection of land mapped as strategic agricultural land, Council believe that the rezoning of the subject land is justifiable based on the following:

- * the subject land is currently zoned R5 Large Lot Residential and subdivision of the land into 1 or 2 ha lots is already permitted with consent and as such the proposed rezoning to R2 is unlikely to further reduce the agricultural potential of the site;
- * the agricultural potential of the site is considered to be minimal given the overall size of the lots and its close proximity to existing residential areas.

The rezoning of strategic agricultural land in this instance is considered to be satisfactory due to:

- the relatively small in area involved;
- its existing large lot residential zoning; and
- its low long term agricultural viability due to its size and proximity to other land uses.

The New England Development Strategy (NEDS)2010 is also relevant to the Planning Proposal. The strategy was prepared for Armidale Dumaresq, Guyra Shire, Uralla Shire and Walcha Councils for the purpose of outlining key landuse policies and principles to provide a planning context for preparing LEP provisions. The NEDS timeframe was up to 2032. The NEDS identified the land as suitable for large lot residential purposes and it was zoned as such under Armidale Dumaresq LEP 2012. The Planning Proposal is therefore not consistent with this strategy however this inconsistency is considered to be of minor significance based on the following:

- * previous potential constraints that led to the application of the existing R5 Large Lot Residential Zone have since been adequately addressed to allow a higher residential density;
- * the proposed rezoning will have minimal impact on the supply and demand of large lot residential land within the Armidale locality; and
- * the site is considered suitable for low density residential development in regards to servicing and proximity to existing residential development.

The Planning Proposal is considered to be consistent with all relevant SEPPs.

The Planning Proposal is considered to be consistent with all applicable section 117 Directions except in relation to 1.3 Mining, Petroleum Production and Extractive Industries, 3.5 Development Near Licensed Aerodromes and 4.3 Flood Prone Land as discussed below.

1.3 Mining, Petroleum Production and Extractive Industries

The proposal is considered to be inconsistent with the Direction as extractive industries will become prohibited on the land under the R2 and E4 Zones of Armidale Dumaresq LEP 2012. This inconsistency is considered to be of minor significance as:

- the NSW DPI Resource Audit Maps show no existing or potential resources in this locality; and
- the location of the subject site in close proximity to existing residential areas and the Armidale airport would make any mining or extractive use unlikely in the future due to potential landuse conflicts.

Any inconsistency with the provisions of this direction is therefore considered to be of minor significance.

3.5 Development Near Licensed Aerodromes

This Direction is relevant as the Planning Proposal will affect land that is in the vicinity of a licensed aerodrome. The Direction requires the RPA to consult with the Department of the Commonwealth responsible for aerodromes. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

4.3 Flood Prone Land

The proposal is inconsistent with this Direction as it proposes changes that could increase the development potential of land that may be flood prone. Martins Gully runs through the eastern section of the site. The inconsistency is considered to be of minor significance as:

- * The Planning Proposal intends to rezone a significant section of the Martins Gully watercourse to E4 Environmental Living and maintain the MLS of 2ha effectively preventing subdivision and development (the area to be rezoned E4 is 1.16ha); and
- * Clause 6.2 Flood Planning of Armidale Dumaresq LEP 2012 applies to the land and ensures that flooding issues are appropriately considered and addressed at the development application stage.

Any inconsistency with this direction is therefore considered to be of minor significance. It is recommended that Council be advised that they should prior to exhibition consider whether all potentially flood prone land should be included within the E4 Zone to better identify this constrained land. Consultation with Department of Primary Industries - Water should be undertaken.

Environmental social
economic impacts :

No adverse economic or social impacts associated with the proposal have been identified. The proposal confirms that appropriate infrastructure is available to service the land. The proposed rezoning will largely result in positive impacts by providing additional residential land and greater housing choice within the Armidale locality.

In regard to environmental impacts, the Planning Proposal will not have any direct significant adverse impact on critical habitat, EECs or threatened species. It is noted that the flora and fauna report supporting the proposal was prepared in October 2013. While it has provided sufficient background to allow the proposal to proceed at Gateway, it is recommended that the report be reviewed and updated to its ensure its currency prior to public exhibition or consultation with agencies.

The subject land is not mapped as bushfire prone land, containing acid sulfate soils or being potentially contaminated by past activities. It is however prone to flooding as discussed above. The site is identified by Council as being affected by spring activity. It is therefore recommended that a geotechnical assessment of the land in relation to spring activity be undertaken to support the rezoning to confirm the suitability of the site for development.

No historic or Aboriginal heritage issues have been identified with the proposal. The proposal does recommend that a Aboriginal cultural heritage assessment be undertaken to confirm this outcome. This approach is supported.

Assessment Process

Proposal type : **Routine** Community Consultation **28 Days**
Period :

Timeframe to make **9 months** Delegation : **RPA**
LEP :

Public Authority **Office of Environment and Heritage**
Consultation - 56(2)(d) **Other**

:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Referral to -

*** Commonwealth department responsible for licensed aerodromes; and**

*** Department of Primary Industries - Water**

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
ARC A#10_ Planning Proposal.pdf	Proposal	Yes
ARC A#10_council report 26.10.2016.pdf	Proposal	Yes
ARC A#10_covering letter.pdf	Proposal Covering Letter	Yes
ARC A#10 - Eval criteria for delegation_completed.pdf	Determination Document	Yes
2016-11-17_PT Report_TL signed.pdf	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.3 Mining, Petroleum Production and Extractive Industries**
 1.5 Rural Lands
 3.1 Residential Zones
 3.5 Development Near Licensed Aerodromes
 4.3 Flood Prone Land

Additional Information : **1. The Planning Proposal be supported;**
 2. The Planning Proposal be exhibited for 28 days;
 3. The Planning Proposal be completed within 9 months;
 4. The Planning Proposal be amended prior to consultation with agencies or exhibition to:
 - include updated maps that utilise the colours and labelling required by the Department's technical mapping requirements;
 - review and update the threatened species assessment to ensure its currency;
 - undertake an Aboriginal cultural heritage assessment; and
 - undertake a geotechnical assessment of the land to confirm the suitability of the site for development particularly in relation to potential spring activity.
 5. That the RPA consult with the Department of the Commonwealth responsible for aerodromes in accordance with the requirements of S117 Direction 3.5 Development Near Licensed Aerodromes;
 6. It is recommended the Secretary (or her delegate) agree that the inconsistency of the proposal with S117 Directions 1.3 Mining, Petroleum and Extractive Industries and 4.3 Flood Prone Land is justified in accordance with the terms of the directions;
 8. That consultation be undertaken with the following agencies:
 - Office of Environment and Heritage;
 - Department of Primary Industries (Water);
 9. A written authorisation to exercise delegation be issued to Armidale Regional Council; and
 10. That Council be advised that they should consider prior to exhibition whether all potentially flood prone land should be included within the E4 Zone to better identify this constrained land.

Supporting Reasons : **The reasons for the recommendation are as follows:**

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1. The proposal will result in the provision of additional housing choice in a regional centre;
2. The proposal is unlikely to have any detrimental social, economic or environmental effect on the subject land or surrounding area;
3. The inconsistencies of the proposal with the S117 directions are of minor significance.
4. The proposal is consistent with all relevant SEPPs.

Signature:



Printed Name:

Craig Duss

Date:

18/11/16

