

Planning and Assessment

IRF19/5048

Gateway determination report

LGA	Armidale Regional
PPA	Armidale Regional Council
NAME	Reclassification of 86 Dangar Street, Armidale (0 homes, 0 jobs)
NUMBER	PP_2019_AREGI_001_00
LEP TO BE AMENDED	Armidale Dumaresq Local Environmental Plan 2012
ADDRESS	86 Dangar Street, Armidale
DESCRIPTION	Lot 101 DP 1237922
RECEIVED	11 July 2019
FILE NO.	IRF19/5048
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

This planning proposal seeks to reclassify the subject land from 'Community' land to 'Operational' land under the Local Government Act 1993 and discharge any potential public reserve status. The site is used as a carpark by the Armidale Ex-Services Memorial Club (the Club) and adjoins the Dumaresq Creeklands to the north. The reclassification will enable Council to sell the site to the Club or adjust the lease amount currently being paid. Part of the funds from the future sale or lease of the site are intended to be used by Council to purchase an adjoining lot that contains part of the public Creeklands walking track.

1.2 Site description

The subject site is located at 86 Dangar Street, Armidale, known as Lot 101 DP 1237922 (Figure 1 and Photos 1 - 3) and has an area of approximately 2108m². The site is owned by Council and contains approximately 77 car parking spaces which are used by staff and patrons of the Club. The Club has a long-standing lease arrangement for the site.

1.3 Existing planning controls

No planning controls are proposed to be amended by this planning proposal other than the classification of the land. The site is currently zoned B4 Mixed Use (Figure 2) and does not have a minimum lot size (Figure 3). The height of building controls

limits development to the Reduced Level of 999.126m, this figure applies across the Armidale CBD (Figure 4). The site is flood prone. The LEP identifies adjoining land as having local archaeological significance as the potential site of the old New England Flour Mill. The site is not identified on Council's potentially contaminated land register.

1.4 Surrounding area

The site forms part of the Armidale Ex-Services Memorial Club car parking facilities and is located at the rear of the club next to a bowling green. It is adjacent to Civic Park and the wider Dumaresq Creeklands precinct (Figure 5). It does not form any public open space function other than car parking for the Club.

1.5 Summary of recommendation

It is recommended that this planning proposal be supported, with conditions, as it will enable Council to commercially lease or sell the site to the Club.



Figure 1: The site – Lot 101, DP 1237922, with corresponding photo perspectives.



Photo 1: Looking west from Civic Park



Photo 2: Looking south west from walking track



Photo 3: Looking south from walking track

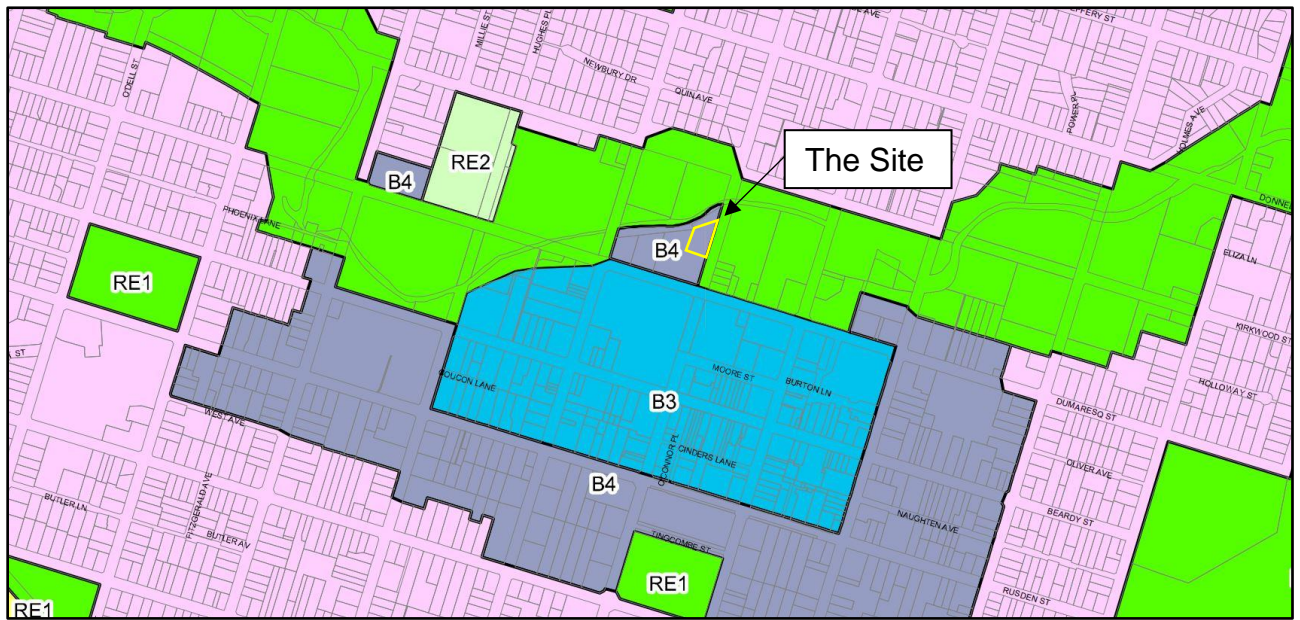


Figure 2: Current land zoning – no change proposed



Figure 3: Current minimum lot size – no change proposed

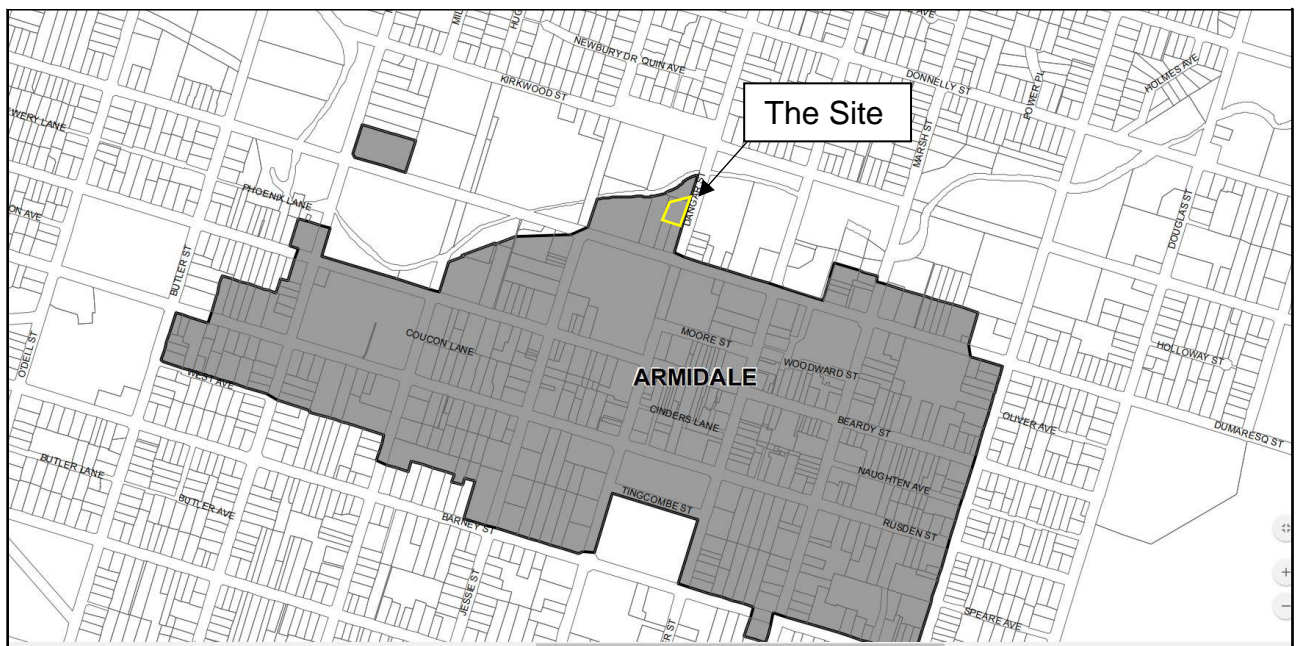


Figure 4: Current height of buildings – no change proposed



Figure 5: The site in context with Armidale CBD and the Dumaresq Creeklands

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the planning proposal is to formalise use of Lot 101 DP 1237922, 86 Dangar Street, Armidale by the Armidale Ex Services Memorial Club through the reclassification of the site from 'Community land to "Operational land. The site is owned by Council and the planning proposal will enable Council to sell it or renegotiate the lease of the site to the Club.

The objectives and intended outcomes of the planning proposal are adequately described and do not require amendment prior to community consultation.

2.2 Explanation of provisions

The planning proposal seeks to amend Part 2 of Schedule 4 of the Armidale Dumaresq Local Environmental Plan 2012 to reclassify the whole of Lot 101 DP 1237922, 86 Dangar Street, Armidale from Community to Operational land and remove any implied Public Reserve status of the land.

The explanation of provisions of the planning proposal include proposed drafting of the amendment. Drafting of the LEP Amendment will be done by Parliamentary Counsel and may be different to what Council has proposed. It is recommended that this part of the planning proposal be amended prior to community consultation.

2.3 Mapping

No changes to the Armidale Dumaresq LEP 2012 maps are required for this LEP Amendment to be made as a result of this planning proposal.

Maps identifying the site are include in the planning proposal and are satisfactory.

3. NEED FOR THE PLANNING PROPOSAL

Council owns the subject site and lease the land to the Armidale Ex-Services Club for \$1 per year to use as a carpark for patrons and staff parking. The site is not a public carpark and not considered public open space, however, it does adjoin public open space (Civic Park to the east and the Dumaresq Creeklands to the north).

Following a recent land valuation, Council wishes to either renegotiate the terms of the lease with the Club or sell the land to the Club for its continued use as a carpark. Council intends to purchase an adjoining lot from the Club that forms part of the Creeklands public walking track. This outcome would rationalise the ownership and management of the land within this area.

Council has advised that the site is potentially a 'public reserve', as defined by the *Local Government Act 1993*, due to it being part of a resumption of land from the Crown "for the purpose of providing, controlling and managing a park' in 1953. Council advise that only part of the subject site was involved in the resumption of land which included land within the Dumaresq Creeklands.

The current lot configuration of Lot 101, DP 1237922 came about in 2017 following a boundary adjustment between former Lot 1, DP 1136216 and Lot 3, DP 1131420. Lot 3 was part of the land involved in the resumption in 1953. Council presumes that the former Lot 3 was at least partially a public reserve under the meaning in the *Local Government Act 1993* and therefore the current subject site, which was part of the former Lot 3, is similarly presumed at least to be partially a public reserve, even

though the declaration of the land as a public reserve is not included on the currently title deed.

To remove any doubt of the public reserve status of the site, Council proposes to seek the removal of any implied reserve status of the land.

The reclassification of the land is the only means for achieving the intended outcome.

4. STRATEGIC ASSESSMENT

4.1 State

The planning proposal does not contain any matter of state significance.

4.2 Regional / District

The planning proposal is consistent with the New England North West Regional Plan 2036. The Regional Plan has relevance to the planning proposal in Directions including:

- Direction 7 – Build strong economic centres;
- Direction 11: Protect areas of potential high environmental value.
- Direction 12: Adapt to natural hazards and climate change.
- Direction 19: Support healthy, safe, socially engaged and well connected communities.
- Direction 23: Collaborate with Aboriginal communities to respect and protect Aboriginal culture and heritage.
- Direction 24: Protect the region's historic heritage assets.

There are no specific actions within the Regional Plan that relate to this land or the reclassification of the site.

4.3 Local

The New England Development Strategy, prepared in 2010, applies to the Armidale Regional LGA and this planning proposal. The planning proposal is considered to be consistent with the general aims and objectives of the strategy.

Objective C of the Strategy is:

(c) to ensure that development is sensitive to both the economic and social needs of the community and the environmental capacity of the area.

The reclassification of the site to operational land will not detract from the nearby community use of the Creeklands, walking track or adjoining public park. The proposal does not seek to develop the site in such a way that exceeds the environmental capacity of the land.

Objective E of the Strategy is:

(e) to encourage the proper management, development and conservation of resources within the Sub-region by protecting, enhancing and conserving:

- (i) land currently used for agricultural production
- (ii) native vegetation, biodiversity, minerals, soils, water and other natural resources
- (iii) areas of high scenic or recreational value

(iv) places and buildings of heritage significance, including Aboriginal places and relics.

The site has no ecological significance, scenic or recreational value due to it being a sealed car park. A portion of the adjoining Club site is listed as having local archaeological significance however the reclassification of the site will not impact upon the management or conservation of the adjoining site.

The planning proposal is considered to be consistent with the objectives of the Strategy.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the relevant section 9.1 Directions except for 4.3 Flood Prone land and 6.2 Reserving Land for Public Purposes.

Direction 4.3 Flood Prone Land

The proposal is inconsistent with Direction 4.3 as it affects land subject to flooding. The site is subject to flooding from Dumaresq Creek however as the land is not being rezoned or any other development controls being amended, or development potential of the site being altered, the inconsistency is considered to be justified because it is of minor significance.

Direction 6.2 Reserving Land for Public Purposes

The proposal is inconsistent with this Direction as the approval of the Department's Secretary has not been obtained in relation to the alteration of existing reservations of land for public purposes. The Council's approval of the reclassification is implicit in the submission of the planning proposal for a Gateway determination. Council indicate that as part of their Government agency consultation process, they will seek the Secretary's approval for the reduction in land reserved for public purposes. Any inconsistency with this Direction is considered to be of minor significance as although owned by Council, and therefore inherently for public purposes, the site is not considered to be public open space as it has been used as a car park for the Club since at least 1972. In addition, the site is only presumed to have public reserve status, by Council, due to the changes in land title not clearly continuing links to the original resumption of the land in 1953.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable state environmental planning policies. SEPP 55 Remediation of land applies to the site, but it is not considered necessary for investigations to be undertaken in this instance. The land is not being rezoned and the development potential of the site is not changing. If further development of the site is undertaken, further site investigation for potential contamination can be done at the development application stage.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The site is currently used as a carpark for patrons and staff of the Armidale Ex-Services Club. The site has been leased to the Club for \$1 per annum since at least 1972 for use of a carpark. The site serves no public open space function and it not a carpark directly available for community use, other than for patrons of the Club. The

reclassification of the land will have a negligible social impact due to there being no direct or tangible change to the development potential of the site.

5.2 Environmental

The site has no critical habitat or threatened species, populations or ecological communities present. The site is subject to flooding, however Council's existing planning controls within the LEP would prevent any inappropriate development occurring on the site. No additional traffic, noise or visual impacts will arise because of the reclassification of the land. The land is not bushfire prone.

A Biodiversity Values Map has been included in the planning proposal that shows the site as partly having a biodiversity value. The biodiversity value relates to the nearby Dumaresq Creek riparian corridor. Council has verbally confirmed that this is an outdated map and does not represent the true biodiversity values of the land. This is confirmed by the Biodiversity Value Mapping available on the OEH website that does not identify this site as having any biodiversity value (Figure 6). It is recommended that the planning proposal be amended to remove the outdated biodiversity values map.

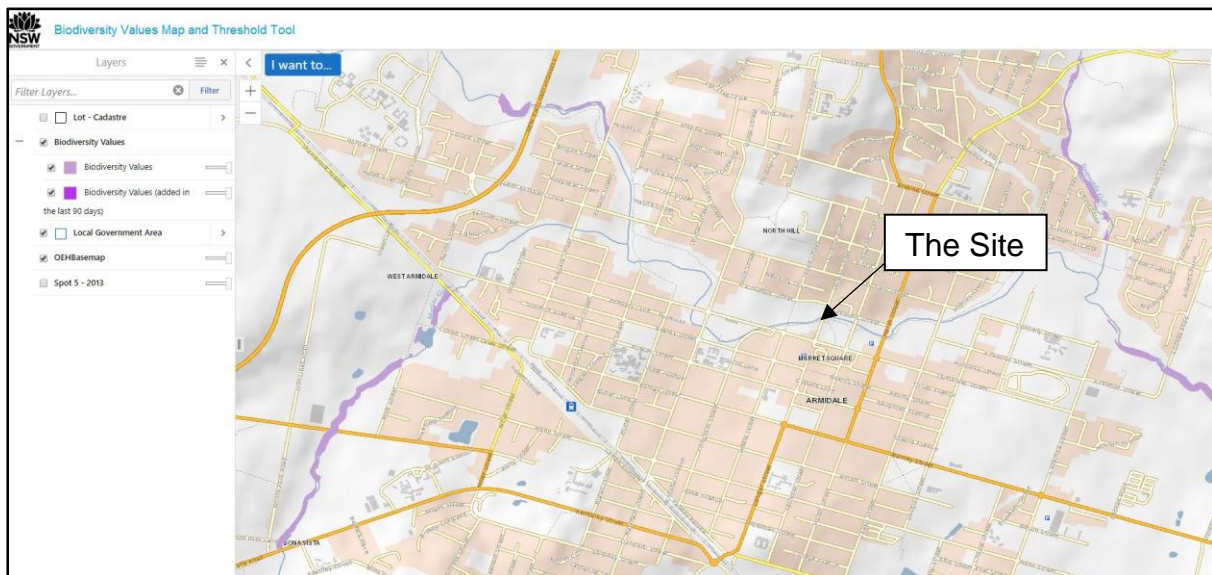


Figure 6: OHE Biodiversity Values Mapping – no values shown on the site.

The site is not presently identified in Council's potentially contaminated land register. However, surrounding lots are listed due to suspected contaminated fill originating from the former Armidale Gasworks being used on the land. It is considered that as no development or changes to development potential is being proposed that a preliminary site contamination report is not required in this instance.

5.3 Economic

The reclassification of land has the potential to provide Council with a minor economic benefit through the sale of the land or the renegotiation of the lease. Council has identified that any money arising from this reclassification will be used for the purchase of land adjoining the site that covers the existing walking track through the Dumaresq Creeklands. No jobs are expected to be created through this reclassification process. Any economic benefit gained from this reclassification is expected to be minimal.

5.4 Infrastructure

The existing infrastructure on the site is satisfactory for the continued use of the site as a carpark. No additional infrastructure will be required.

5.5 Loss of public open space

This site has been used by the Armidale Ex-Services Club for their car parking requirements since the early 1970's. As the land is used exclusively by the Club for carparking, it is not considered that the land is public open space. The reclassification of the land will enable Council to renegotiate the current \$1 per year lease arrangement with the Club. The lease signed in 1993 requires the land to be used for carparking. Development of the land for other purposes would be in contradiction with the lease.

This 2108m² carpark adjoins established public open space areas that are used for both passive and active recreation. To the east are two established parks, Civic Park and Curtis Park. These parks include picnic shelters, BBQs, public toilets, a small pond, public art works and play equipment. To the north and west of the site are sporting fields, a walking track and the Armidale swimming pool. These areas of public open space immediately around the site have a combined area of approximately 20.3 ha (Figure 7) and form part of the wider Dumaresq Creeklands (Figure 8).



Figure 7: 20.3ha of open space immediate around the site



Figure 8: Extent of Dumaresq Creekland highlighted.

If this site is sold by Council to the Club and further development of the land is undertaken, it is not considered that it will be a loss of public open space due to the long-term use of the land for private parking and it not being a significant feature of the surrounding public open space that is well used and maintained by Council.

6. CONSULTATION

6.1 Community

Council specifies that a 28-day timeframe for community consultation will be undertaken. The engagement process will involve displays at Council offices and on their website.

In accordance with the Department's Practice Note 16-001 Classification and reclassification of public land through a local environmental plan, a 28-day community consultation period is required for this planning proposal. A copy of the Practice Note is also to be included in the exhibition material.

A public hearing will also be required to be held in accordance with section 29(1) of the *Local Government Act 1993*. After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

The proposed consultation period is considered adequate.

6.2 Agencies

No Government agency consultation is required for this planning proposal.

6.3 Governor's Approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (section 30 of the *Local Government Act 1993*). This will be sought after the community consultation phase and prior to the LEP Amendment being made.

7. TIME FRAME

Council estimates the planning proposal and LEP amendment will be completed within 7 months. A 9-month timeframe is recommended as the process involves the reclassification of land which requires a 28-day consultation period and 21-day public notice period for the public hearing.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not requested the use of plan making delegations. Delegations cannot be granted as the reclassification involves the discharge of interests in public land under section 30 of the Local Government Act 1993.

9. CONCLUSION

This planning proposal is recommended to be supported to proceed with conditions as it will provide Council with flexibility for managing the ongoing use of the land.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistency with section 9.1 Directions 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes is justified in accordance with the terms of the Directions.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition the planning proposal is to be amended by:
 - (a) Updating Part 2 - Explanation of Provisions of the planning proposal to provide a plain English explanation of the provisions of the LEP that are proposed to be changed; and
 - (b) The Biodiversity Values Map in Table 2 be removed, and the commentary amended to reflect the biodiversity values mapping prepared by the Office of Environment and Heritage.
2. The planning proposal should be made available for community consultation for a minimum of 28 days. A copy of the Department's Practice Note PN 16-001 *Classification and reclassification of public land through a local environmental plan* is to be included in the public exhibition material
3. Consultation is not required with any public authorities,
4. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
6. Council must arrange a public hearing under section 57 of the Environmental Planning and Assessment Act 1979 in respect of a planning proposal under Part 3 of that Act to reclassify community land as operational land.



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