

Item:	7.1.1	Ref: AINT/2017/06255
Title:	FOR DECISION: Planning Proposal No. 13 - Part 111 Cookes Road, Armidale	Container: ARC16/0970
Author:	Jocelyn Ullman, Strategic Planner	
Attachments:	1. Planning Proposal No 13 - May 2017	

RECOMMENDATION:

- a) **That Planning Proposal No.13 to amend Armidale Dumaresq Local Environmental Plan 2012, which proposes to:**
- **Rezone Part Lot 40 DP 1215012 at 111 Cookes Road, Armidale, from R2 Low Density Residential to R1 General Residential, and**
 - **Alter the lot size standard for Part Lot 40 DP 1215012 from 4,000m² to 500m²,**
- be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, in accordance with section 56 of the *Environmental Planning and Assessment Act 1979*.**
- b) **That a further report be provided to Council following public exhibition of Planning Proposal No. 13 to amend Armidale Dumaresq Local Environmental Plan 2012.**
- c) **That the proponent be advised of Council's resolution.**

Background

Council has received a Planning Proposal to amend Armidale Dumaresq Local Environmental Plan 2012 (ADLEP 2012) from McCloy Dumaresq Pty Ltd, the owners of the property at 111 Cookes Road, Armidale. The Planning Proposal applies to Part of Lot 40 DP 1215012 (the Site) which is part of the property north of Dumaresq Creek. Lot 40 is on the western edge of the property and is a former road reserve that was purchased by McCloy Dumaresq Pty Ltd from the adjoining landowner in 2015.

The objective of the Planning Proposal is to zone the Site from R2 Low Density Residential to R1 General Residential and reduce the lot size standard from 4,000m² to 500m² to enable future residential subdivision of this part of the property.

On 13 March 2017 council granted development consent for a 250 lot subdivision over 111 Cookes Road (Subdivision Site). Development of the approved subdivision is proposed to be carried out in stages, commencing on the western side of the Subdivision Site along Cookes Road and progressing east with the final stages including the Site. The Planning Proposal seeks to amend ADLEP 2012 so the zoning and lot size standards applying to the Site are consistent with adjoining land in the Subdivision Site. By doing so, this will enable future subdivision of the western part of the Subdivision Site to be reconfigured with the potential to increase the residential lot yield.

This report recommends that the Planning Proposal submitted by McCloy Dumaresq Pty Ltd, as reviewed and amended by council, be forward to the Department of Planning and Environment with a request for a Gateway Determination. Council will seek to use its local plan making delegations as the Planning Proposal is considered to be of local significance, subject to the agreement of the Gateway.

Report:

Planning Proposal No 13 submitted by McCloy Dumaresq Pty Ltd has been reviewed and amended by council staff and is in Attachment 1.

Planning Proposal No 13

Planning Proposal No 13 applies to Part of Lot 40 DP 1215012 (the Site), which was a former road reserve and forms part of an approved subdivision at 111 Cookes Road (Subdivision Site). The Site is currently zoned R2 Low Density Residential with a minimum lot size of 4,000m².

The total area of Lot 40 DP 12150112 is 1.581ha and is bounded by Dumaresq Creek to the south. The Subdivision Site is approximately 42.362 hectares and the Site occupies a relatively small area of approximately 1.2 hectares, or approximately 2.8% of the Subdivision Site.

On 23 July 2013 council granted development consent (DA-117-2012) for a 210 lot subdivision over the Subdivision Site. A subsequent application to increase the lot yield to 250 lots was granted development consent on 13 March 2017. The Planning Proposal proposes to rezone the Site to R1 General Residential with a minimum lot size of 500m². The proponent has indicated that the proposed rezoning of the Site will allow for a more logical and efficient subdivision of the entire property whilst providing a greater choice in lot sizes to the market. The Planning Proposal will facilitate an increase in the potential lot yield for the Subdivision Site of approximately 20 residential lots.

Extensive investigations and reporting, including the following, were carried out as part of the original subdivision application:

- Archaeological Study
- Flora and Fauna Study
- Traffic Study
- Bushfire Study
- Geotechnical Study
- Initial Assessment of Contaminated Lands
- Utility Services Investigations.

A review of these studies as part of preparing the Planning Proposal has not identified any significant constraints to the proposed rezoning and reduction in the lot size standard for the Site.

Request for Gateway Determination and local plan making delegations

The next step in progressing the Planning Proposal is to refer it to the Department of Planning and Environment (DP&E) with a request for a Gateway Determination.

The Planning Proposal meets the types of proposed LEP amendments that are routinely delegated to councils. Council will be seeking to use its local plan making delegations on the basis that the proposed LEP amendment is considered to be of local significance.

Integrated Planning and Reporting Framework

By providing for additional housing sites, the Planning Proposal is considered to support:

- the following Strategic Objectives in council's *Community Strategic Plan 2013-2028*:
 - Our People – to have a strong and resilient local economy
 - Our Environment – to manage the landscape for improved water quality and riparian stability

- the Strategic Direction: *growth prosperity and economic development* in council's Draft Community Strategic Plan 2017-2027, publicly exhibited up to 24 February 2017.

Stakeholder Engagement

Part 5 of Planning Proposal No 13 suggests that community consultation comprise public exhibition of the proposal for 14 days, including notification to adjoining landowners. The final form of the community consultation will be specified in the Gateway Determination.

The review of the submitted Planning Proposal by council's Strategic Planning staff involved consultations with relevant staff, including Engineering services.

Financial Implications

Clause 11 of the *Environmental Planning and Assessment Regulation 2000* (EPA Regulation) allows Council to enter into an agreement or arrangement with a person who requests preparation of a Planning Proposal for the payment of the costs and expenses incurred by Council in undertaking studies and other matters required in relation to the Planning Proposal. Council has entered into an agreement with the landowner for Planning Proposal No. 13 to pay for costs associated with preparing the proposal in accordance with the Fees Schedule in Council's Operational Plan 2016-2017.

The Site is subject to council's development contributions plans that propose to:

- connect the existing pedestrian cycleway in the Creeklands to the Subdivision Site
- upgrade Cookes Road bridge over Dumaresq Creek.

Good Governance

Statutory

An LEP is a statutory document and preparing and making of an amending LEP must be in accordance with the EPA Act and EPA Regulation. Section 55(2) of the EPA Act sets out the matters to be included in a Planning Proposal.

Section B of the Planning Proposal also considers whether the Planning Proposal is consistent with relevant State Environmental Planning Policies (statutory plans) and Ministerial Directions under section 117 of the EPA Act.

The Planning Proposal is considered to be consistent with applicable State Environmental Planning Policies and applicable section 117 Directions, except for section 117 direction 4.3 *Flood Prone Land*. However, the inconsistency is considered to be of minor significance and therefore justified.

Policy and risk management

The *Armidale Flood Study Review and Update – Stage 3* (BMT WBM, 2014) identifies a small section (approximately 20m x 2m) at the southern end of the Site as being below the Flood Planning Level (FPL). The Planning Proposal proposes to rezone this part of the Site below the FPL to R1 General Residential so that it corresponds with the adjoining R1 zone boundary. A Floodplain Risk Management Plan (FRMP) is being prepared for the urban reaches of Dumaresq Creek in Armidale in accordance with the State government's *Floodplain Development Manual 2005*. The planning controls, including LEP provisions, applying to the Site will be reviewed along with those applying to other flood prone land in Armidale as part of preparing the FRMP.

In the intervening period, between the Site being zoned in accordance with the Planning Proposal and any changes to planning controls as a result of the FRMP, risks associated with flooding on the Site will be managed as follows:

- development of land below the FPL will be subject to the current provisions of the EPA Act and ADLEP 2012. Clause 6.2 *Flood Planning* in ADLEP 2012 applies to land below the FPL and 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 proposed rezoning of the Site below the FPL is unlikely to impact on future residential development of the Subdivision Site. That part of the Site below the FPL is approximately 40m² and sufficient land would be available above the FPL to enable a future residential subdivision to have flood free access roads and residential lots.

The Site is approximately 125m south of land shown on council's Bushfire Prone Land map certified by the NSW Commissioner of the NSW Rural Fire Service. Due to the proximity of bushfire prone land to the Site the Planning Proposal will be referred to the NSW Rural Fire Service following the Gateway Determination in accordance with section 117 direction 4.4 *Planning for Bushfire Protection*.

Sustainability Assessment

Social and physical infrastructure

The Planning Proposal will potentially provide for an additional 20 residential lots on the Subdivision Site. However, due to the scale of future development the impact on existing social infrastructure is considered to be limited. The Site is in proximity to schools and bus routes and within walking/cycling distances to recreation areas. Other social infrastructure can be readily accessed by public transport (buses and taxis) and private vehicles. Adequate physical infrastructure (eg water supply, sewerage services, roads, power and telecommunications) is available, or can be made available, to serve future development of the Site.

Heritage

An Aboriginal Heritage Report was carried out as part of DA-117-2012 which identified one Potential Archaeological Deposit (PAD) located south of the Site. There are no European heritage items on or in the vicinity of the Site.