

# **Armidale Regional Council**

## **Planning Proposal (PP-2021-4173)**

**to create**

### **a consolidated local environmental plan**

**for the**

### **Armidale Regional Council Local Government Area**

*This version of the ARLEP Planning Proposal has been prepared for consultation purposes in response to the conditions attached to the Gateway Determination dated 04 August 2021.*

## **Contents**

- Introduction
- Part 1 – Objectives or intended outcomes
- Part 2 – Explanation of provisions
- Part 3 – Justification
- Part 4 – Mapping
- Part 5 – Community Consultation
- Part 6 – Project Timeline
- Appendix

## Introduction

This Planning Proposal relates to the creation of the Armidale Regional Local Environmental Plan (ARLEP) which is to be achieved through harmonisation of the Armidale Dumaresq Local Environmental Plan (ADLEP) 2012 and the Guyra Local Environmental Plan (GLEP) 2012.

This Planning Proposal has been prepared in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (EP+A Act) and in response to the NSW Government publication: “A guide to preparing planning proposals” dated December 2018. It is also consistent with the NSW Government publication “Guidance for merged councils on planning functions” dated May 2016, which states that in proposing to harmonise existing comprehensive local environmental plans, councils can expand an existing local environmental plan to become the principal instrument for the area.

The Armidale Regional Council (ARC) Local Government Area (LGA) was proclaimed on 12 May 2016 from the merger of Armidale Dumaresq Council (ADC) and Guyra Shire Council (GSC). On that date ARC became responsible for the ADLEP 2012 and the GLEP 2012. On 1 July 2019, a subsequent proclamation altered the boundaries between the ARC and Inverell Shire Council (ISC) LGAs, so that the localities collectively referred to as “Tingha” (formerly within the GSC LGA), became part of the ISC LGA.

This Planning Proposal seeks to expand the ADLEP 2012 to apply to the whole of the ARC LGA. Consequently, the GLEP 2012 will be repealed but only in so far as it applies to the ARC LGA i.e. it will still apply to the relevant part of the ISC LGA.

The decision to expand the ADLEP 2012, rather than the GLEP 2012, is simply due to the fact that the ADLEP contains more content than the GLEP and therefore fewer amendments will be required in order to create the ARLEP. In any case, the harmonisation process is being undertaken by directly comparing ADLEP 2012 content with content from the GLEP 2012 and from the Standard Instrument – Principal Local Environmental Plan (SI or Standard Instrument) 2006<sup>1</sup>. Where any differences exist between the content from each of the three LEP documents a review process has been undertaken to determine whether an amendment should be made to the ADLEP 2012 content to create the ARLEP and if so, the nature of that amendment.

## Part 1 – Objectives or intended outcomes

### A statement of the objectives and intended outcomes of the proposed instrument

This Planning Proposal is consistent with the NSW Government publication: “Guidance for merged councils on planning functions” dated May 2016. The publication states that in proposing to harmonise existing comprehensive local environmental plans, councils can expand an existing local environmental plan to become the principal instrument for the area. The objective of this Planning Proposal is therefore:

- To create a consolidated local environmental planning instrument for the Armidale Regional Local Government Area by amending the Armidale Dumaresq Local Environmental Plan 2012 to include provisions from the Guyra Local Environmental Plan 2012 and the Standard Instrument – Principal Local Environmental Plan 2006 and correct a number of existing anomalies.

---

<sup>1</sup> The Standard Instrument sets out the standard provisions for a local environmental plan.

## Part 2 – Explanation of provisions

### An explanation of the provisions that are to be included in the proposed instrument

Appendix A summarises the findings arising from a comparison of content extracted from a version of the Standard Instrument 2006, the ADLEP 2012, and the GLEP 2012 (refer Table 1). It also provides a summary of proposed amendments to the ADLEP 2012 as detailed in Appendices B and C and the associated justification for each amendment.

**Table 1: LEP Comparison Documents**

Document	Currency of Version
<b>Standard Instrument—Principal Local Environmental Plan (2006)</b>	Current version for 1 February 2021 to date (accessed 3 March 2021 at 15:36)
<b>Armidale Dumaresq Local Environmental Plan 2012</b>	Current version for 12 February 2021 to date (accessed 26 February 2021 at 15:50)
<b>Guyra Local Environmental Plan 2012</b>	Current version for 1 February 2021 to date (accessed 26 February 2021 at 15:52)

Appendices B and C comprise a series of documents that detail the findings arising from the LEP comparison. As the ADLEP 2012 and the GLEP 2012 are both based on the Standard Instrument 2006 there is a high degree of similarity in content. In some cases, even where the content differs, the net effect has been found to be the same following review. A number of changes are required to the ADLEP 2012 content to reflect the proclamation of Armidale Regional Council and the creation of the ARLEP. A number of changes are also proposed to the ADLEP 2012 to address differences with the GLEP 2012 content and/or with the Standard Instrument 2006 content. In some cases the proposed amendment seeks to maintain existing land use rights in the former Armidale Dumaresq and Guyra LGAs. In other cases the proposed amendment seeks to adopt a single solution that will apply across the whole of the ARC LGA.

Appendix D provides information regarding the proposed new ARLEP Map Set.

## Part 3 – Justification

### The justification for those objectives, outcomes and the process for their implementation

#### Section A – Need for the planning proposal

*Q1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?*

This Planning Proposal is not the result of an endorsed local strategic planning statement (LSPS) as the requirement to harmonise merged council local environmental plans pre-dates the inclusion of provisions relating to such statements in the EP+A Act. It is however consistent with the NSW Government publication: “Guidance for merged councils on planning functions” dated May 2016 as described previously.

The Implementation Plan within the endorsed Armidale Regional Local Strategic Planning Statement (dated October 2020) does however identify the following “administrative actions” relating to Council’s Local Environmental Plans:

8. Merge Existing LEPs (Timing: 2020/21.)

Merge the current Armidale Dumaresq Local Environmental Plan 2012 and the current Guyra Local Environmental Plan 2012 to produce a single LEP for the Armidale Regional Council local government area.

9. Amend Merged LEP (Timing: As required, subject to LSPS planning action timing.)

Review and amend (as required) the merged LEP to address the outcomes arising from the implementation of each LSPS planning action.

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

This Planning Proposal is considered to be the best means of achieving the stated objectives and/or intended outcomes as described previously. The decision was made to expand the ADLEP 2012 in order to minimise the number of amendments required to create the ARLEP.

#### Section B – Relationship to strategic planning framework

*Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

This Planning Proposal will not directly give effect to the objectives of the New England North West Regional Plan (NENWRP). It will however facilitate future local environmental plan review and update processes as required by the EP+A Act, including those related to NENWRP implementation, particularly as reflected in Council's LSPS.

*Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?*

As described previously, this Planning Proposal will not directly give effect to Council's endorsed LSPS. It will however facilitate future local environmental plan review and update processes, including those related to LSPS implementation.

*Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?*

Given the nature of this Planning Proposal (i.e. to merge two current LEPs based on the Standard Instrument), no inconsistencies should exist with any applicable State Environmental Planning Policies. Any inconsistencies identified in the Gateway determination as issued by the Minister will be addressed in an appropriate manner.

*Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?*

Given the nature of this Planning Proposal, no inconsistencies should exist with any applicable Ministerial Directions. Any inconsistencies identified in the Gateway determination as issued by the Minister will be addressed in an appropriate manner.

#### 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?*

Given the nature of this Planning Proposal, it is unlikely that any critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected. Therefore, no studies are proposed to undertaken in this regard.

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

Given the nature of this Planning Proposal, no other environmental effects are likely. Therefore, no further investigations are proposed to be undertaken in this regard.

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

Given the nature of this Planning Proposal, no potential social and/or economic effects are envisaged. Therefore, no further issues are proposed to be addressed in this regard.

#### Section D – State and Commonwealth interests

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

Given the nature of this Planning Proposal, it is unlikely that any additional demands will be placed on public infrastructure. The potential for any proposed changes in land use rights to lead to additional demands is more appropriately addressed in conjunction with the assessment of any future development application. Therefore, no studies are proposed to be undertaken in this regard.

Q.11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

Preliminary consultation has been undertaken with the Department of Planning, Industry and Environment (DPIE) in preparing this Planning Proposal. DPIE confirmed previous guidance from the NSW Government that Council may propose to expand the Armidale Dumaresq Local Environmental Plan 2012 as a means of harmonising the two current local environmental plans.

Further Agency consultation is proposed to be undertaken in accordance with the Gateway Determination.

Gateway Determination condition 4 states:

*Consultation is required with the following public authorities / organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:*

- *NSW Rural Fire Service*
- *National Parks and Wildlife Service*
- *Biodiversity Conservation Division*
- *Heritage NSW*
- *Armidale Local Aboriginal Land Council*
- *Guyra Local Aboriginal Land Council*
- *Department of Primary Industries – Agriculture*
- *NSW Mining, Exploration and Geoscience*
- *Transport for NSW (road and rail)*
- *Crown Lands*

*Each public authority / organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.*

#### **Part 4 – Mapping**

**Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies**

A proposed new map set has been prepared (refer Appendix D) consistent with the NSW Government publication: “Standard Technical Requirements for Spatial Datasets and Maps” Version 2.0 dated August 2017. The new map set combines current maps from the ADLEP 2012 and that part of the GLEP 2012 within the ARC LGA, as described in Appendix B12. That Appendix also includes details of amendments included within the new map set.

## Part 5 – Community consultation

Details of the community consultation that is to be undertaken on the planning proposal

Community consultation / public exhibition is proposed to be undertaken in accordance with the Gateway Determination.

Gateway Determination condition 3 states:

*Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:*

- (a) *the planning proposal must be made publicly available for a minimum of **28 days**; and*
- (b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).*

## Part 6 – Project Timeline

A project timeline to detail the anticipated timeframe for the plan making process

Gateway Determination condition 6 states:

*The time frame for completing the LEP is to be **9 months** following the date of the Gateway determination.*

The anticipated timeframe for the relevant plan making process is outlined in Table 2 following.

**Table 2: Project Timeline\***

Ref.	Item	Month
1.	Date of Gateway Determination (GD).	04 Aug. '21.
2.	Update Planning Proposal (PP) as per GD condition 1.	Aug. - Sep. '21.
3.	Submit amended PP to DPIE for review.	Sep. '21.
4.	Receive DPIE approval to proceed.	Sep. '21.
5.	Undertake consultation with Agencies as per GD condition 4 (21 days min.).	Sep. - Oct. '21.
6.	Review Agency comments on PP.	Oct. '21.
7.	Undertake Community Consultation as per GD condition 3 (28 days min.).	Oct. - Nov. '21.
8.	Review Community submissions on PP.	Nov. '21.
9.	Submit request to DPIE to draft and finalise the LEP.	Nov. - Dec'21.
-	Date of Local Government Election.	04 Dec. '21
-	Dates for Public Notice Exclusion Period.	20 Dec. '21 - 10 Jan. '22.
10.	LEP drafting and finalisation.	Dec. '21 – Apr. '22
11.	Complete LEP Project.	by 04 May '22.

\* The Project Timeline assumes that any Agency comments received will not result in significant changes to the Planning Proposal, thus allowing Community Consultation to be undertaken prior to the rescheduled Local Government election.

## **Appendix**

- A - LEP Content Comparison Summary
- B - LEP Content Comparison
- C - LEP Content Comparison - Part 2 - Zones
- D - Proposed ARLEP Map Set