



IRF23/710

## Gateway determination report – PP-2023-626

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To schedule a light industry as an additional permitted use on Lot 4 DP 546075, 57 Newton Street, Armidale

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

### Relevant reports and plans

Planning Proposal No. 19 – 57 Newton Street, Armidale Additional Permitted Use Lot 4 DP546075 March 2023

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Armidale Regional Council</b>
<b>PPA</b>	Armidale Regional Council
<b>NAME</b>	To schedule a light industry as an additional permitted use with consent on Lot 4 DP 546075, 57 Newton Street, Armidale
<b>NUMBER</b>	PP-2023-626
<b>LEP TO BE AMENDED</b>	Armidale Regional Local Environmental Plan (LEP) 2012
<b>ADDRESS</b>	57 Newton Street, Armidale
<b>DESCRIPTION</b>	Lot 4 DP 546075
<b>RECEIVED</b>	24/03/2023
<b>FILE NO.</b>	IRF23/710
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- regularise the permissibility of the light industrial land uses that have historically and continually been carried out at 57 Newton Street, Armidale.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend Schedule 1 of the Armidale Regional LEP 2012 to include a light industry as an additional permitted use at 57 Newton Street, Armidale.

Light industry is defined in the Armidale Regional LEP 2012 as:

*“a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following—*

- (a) *high technology industry,*
- (b) *home industry,*
- (c) *artisan food and drink industry,*
- (d) *creative industry.”*

The planning proposal contains an explanation of provisions that adequately explains how the objectives and intended outcomes of the proposal will be achieved.

## 1.4 Site description and surrounding area

The land is known as Lot 4 DP 546075, 57 Newton Street, Armidale. It has a total area of 910.543m<sup>2</sup> and contains an existing commercial building sited on the northern and eastern site boundaries. The majority of the site comprises hardstand parking and manoeuvring areas (Figure 1).

The allotment is accessed via Newton Street, which is the primary frontage for the subject land. The allotment has secondary frontage to, but no formal access from, Dawson Avenue.

Historic land uses include a bus depot approved in 1961, understood to be a permissible land use at the time. This building was extended to the west in 1971 via existing use provisions.

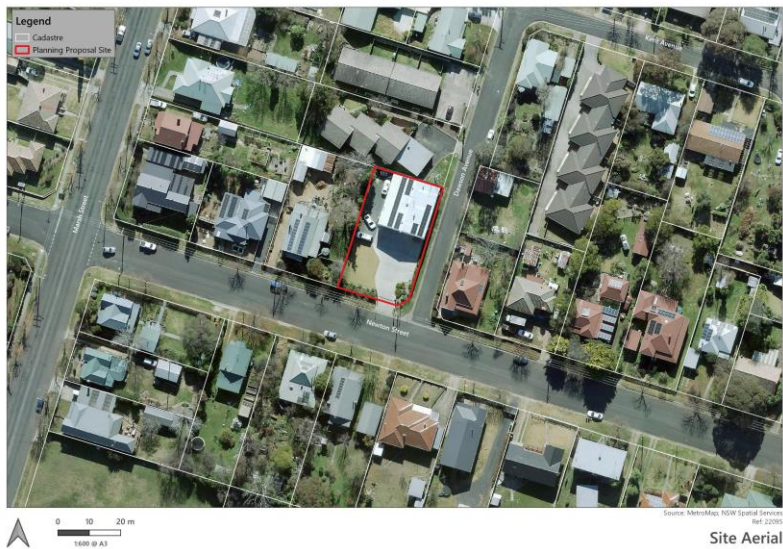
Council advises that development consent was granted for alterations and additions and a change of use to office and storage for construction material in 2011. In 2017, development consent was granted for a further change of use from office, workshop and storage to a showroom/office and workshop.

Lot 4 DP 546075 is serviced by water, electricity and telecommunications. The site is not mapped as:

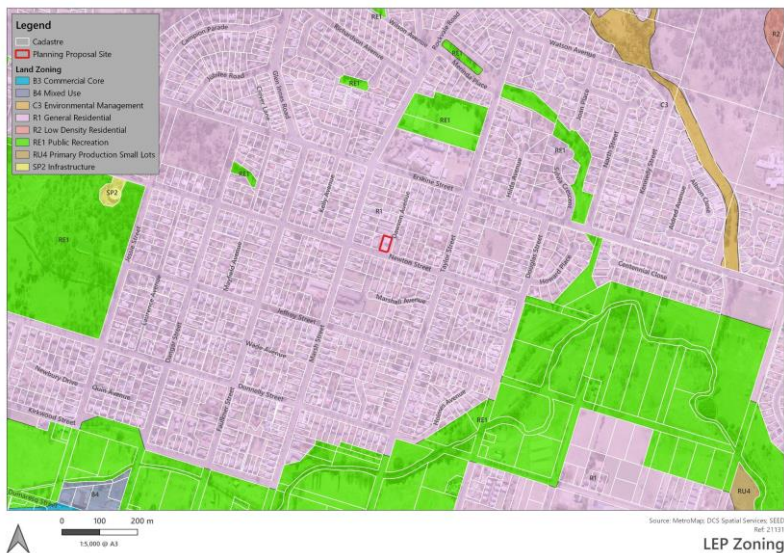
- being bushfire prone;
- being subject to inundation or flooding;
- containing biodiversity values or High Environmental Value (HEV) land;
- Biophysical Strategic Agricultural Land;
- containing items or places of non-Aboriginal or Aboriginal cultural heritage significance.

The allotment is located to the north of the Armidale Central Business District (CBD) and to the east of the main arterial road (Marsh Street) which connects the CBD to the bypass road and Thalgarrah.

The allotment is zoned R1 General Residential and the surrounding area predominantly comprises residential development (Figure 2), with scattered commercial land uses along Marsh Street (Figure 3).



**Figure 1 – Aerial image of Lot 4 DP 546075 and surrounding area (source: Planning Proposal)**



**Figure 2 – Existing zoning map (source: Planning Proposal)**





**Figure 3 – Existing land use map (source: Planning Proposal)**

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the relevant Armidale Regional LEP 2012 Additional Permitted Uses map (Figure 4), which is considered suitable for community consultation.

Maps consistent with the Department of Planning and Environment's *Standard Technical Requirements for Spatial Datasets and Maps* will be required to be prepared prior to the plan being made.



**Figure 4 – Proposed Additional Permitted Uses Map**

## 2 Need for the planning proposal

The planning proposal is not the result of a local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report.

The requirement for the planning proposal has arisen as a result of the recent merge of the Armidale Dumaresq Local Environmental Plan 2012 and the Guyra Local Environmental Plan 2012 into a single Armidale Regional Local Environmental Plan 2012. As part of finalising the Armidale Regional LEP, Council had resolved to regularise the existing use of the site for light industry, which were prohibited land uses under the previous Armidale Dumaresq LEP 2012.

These changes were not exhibited as part of the planning proposal to merge the LEPs and as they were not considered to be consistent with the objective or intended effect the proposal, Council was advised the proposed additional permitted use was best dealt with by way of a new planning proposal.

Council have indicated the current use undertaken at 57 Newton Street benefits from existing use rights, as the original use was permissible in the zone when it was approved under a previous LEP. Development consent was granted for alterations and additions and a change of use to office and storage for construction material in 2011. In 2017, development consent was granted for a further change of use from office, workshop and storage to a showroom/office and workshop.

The key reason for seeking regularisation of the use relates to the limitations for the rebuilding or intensification of land uses under existing use rights provisions. Council have outlined that this limits the continued use of the site as a retail premises and prevents major investment in the existing building.

Council have identified that another option of achieving the aim of the proposal is to rezone the site to IN2 Light Industrial. However, Council have indicated that this would require additional studies and consideration to ensure the rezoning is appropriate. This option was considered by Council to be a long term strategy to consider however would not allow for the regularisation of existing land uses in the shorter term.

The planning proposal seeks to amend Schedule 1 Additional permitted uses of the Armidale Regional LEP 2012 to permit, with consent, development for the purposes of light industry on land at 57 Newton Street Armidale, being Lot 4 DP 546075.

The proposal to amend Schedule 1 of the Armidale Regional LEP 2012 is considered to be the best approach to achieve the intended outcome on the basis that it is inappropriate to:

- permit 'light industry' within the entirety of the R1 General Residential zone;
- re-zone Lot 4 DP 546075 to an industrial zone as:
  - this would result in a range of industrial uses being permitted on the land, which may detract from existing industrial areas in Armidale and increase the potential for land use conflicts with surrounding residential land uses; and
  - the allotment does not currently form part of the areas identified for future industrial land release within the Armidale Industrial Land Study (AILS).

Therefore, at this time the planning proposal is considered the best means of achieving the objectives or intended outcomes in the interim period, while Council progresses its strategic planning process. However, Council is encouraged to revisit the zone of the land in due course.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the New England North West Regional Plan 2041. The proposal does not undermine the vision, objectives or strategies of the Regional Plan.



**Table 3 Regional Plan assessment**

Regional Plan Objectives	Justification
Part 2: Productive and innovative	<p><i>Objective 6: Coordinate the supply of well-located employment land</i></p> <p>The planning proposal will assist with the continuation of an established land use.</p>

## 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

**Table 4 Local strategic planning assessment**

Local Strategies	Justification
Armidale Local Strategic Planning Statement: A Plan for 2040	<p>The Armidale Local Strategic Planning Statement: A Plan for 2040 (LSPS) was adopted by Council following consideration at the October 2020 Ordinary Meeting. The proposal aligns with the following planning priority contained in the LSPS:</p> <p>Action 2d) Employment Land within the LSPS is considered broadly relevant to the proposal. These actions relate to future studies to inform the development of land required and suitable for industrial purposes.</p> <p>Given the planning proposal is an interim measure to regularise the use of the site through an additional permitted use, it is considered these actions are more relevant to future planning proposals. Council is encouraged to pursue the necessary studies to inform future management and development of employment land within the LGA, in accordance with the objectives of the employment zone reform program, once formally implemented.</p>
New England Development Strategy (NEDS)	<p>The NEDS was conditionally endorsed by the former Director General of the Department of Planning on 16 March 2010. It includes objectives to ensure adequate industrial land is provided to meet demand for development and enable employment opportunities. It also seeks to encourage residential infill development in Armidale.</p> <p>The planning proposal is not inconsistent with the objectives of the NEDS for industrial land as it will help to continue to provide employment opportunities without compromising future residential infill development on surrounding residential lands</p>
Armidale Industrial Land Study: Armidale Dumaresq Council (AILS)	<p>The AILS was conditionally endorsed by the former Deputy Director General of the Department of Planning and Infrastructure on 18 April 2013. It was prepared to assess the existing and future supply and demand for industrial land in Armidale to determine whether there is a need for additional industrial land release.</p> <p>The report identified that there was strong demand for industrial land and a lack of current supply. The report also identified areas for future industrial land release. The planning proposal site is not within any of the identified areas however it is not inconsistent with the strategy as it will formalise the continued use of the site for the historic and continuous use of the site for light industrial purposes.</p>

### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 5 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
6.1 Residential Zones	No – Justifiably inconsistent	<p>This direction applies where a planning proposal will affect land within an existing or proposed residential zone.</p> <p>The proposal is inconsistent as it contains provisions that may reduce the permissible residential density by introducing a non-residential use as an APU on the land.</p> <p>The inconsistency is considered minor as the zone remains unchanged and the land could still feasibly be used for residential use in future. Further, the proposal aims to regularise the existing use on the site that has lawfully occupied the site since 2011.</p>

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be broadly consistent with all relevant SEPPs. A number of SEPPs may be required to be addressed as part of any future development application on the land and this can be appropriately undertaken at future stages of the proposal.

## 4 Site-specific assessment

### 4.1 Environmental

Environmental impacts arising from the proposal are considered to be unlikely.

The proposal represents a regularisation under the existing planning instrument to facilitate ongoing operations of approved light industrial activities on the site.

The following table provides an assessment of the potential environmental impacts associated with the proposal.

**Table 9 Environmental impact assessment**

Environmental Impact	Assessment
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Environmental	<p>The proposal is not expected to impact any critical habitat or threatened species, populations or ecological communities, or their habitats.</p> <p>The subject land has been previously cleared and developed and does not contain or adjoin:</p> <ul style="list-style-type: none"> <li>land with high biodiversity value as shown on the Biodiversity Values Map;</li> <li>a heritage item or area listed under schedule 5 of the Armidale Regional LEP 2012;</li> <li>known Aboriginal cultural heritage as per a basic search of the Aboriginal Heritage Information Management System; or</li> <li>a watercourse.</li> </ul>
Land use conflict	<p>The proposal will allow for the ongoing use of the land for light industrial purposes and may facilitate some alterations and additions to the existing building on site. It is unlikely that the additional permitted use will result in a considerable expansion of operations at the site, over and above what is already occurring. Potential impacts will be further considered as part of any future development application lodged.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 10 Social and economic impact assessment**

Social and Economic Impact	Assessment
Industrial uses outside existing industrial areas	<p>The use of the site for this light industrial purposes currently relies upon existing use rights. The proposal will regularise the use of the site, outside of the existing industrial zoned areas in Armidale, for the purposes of light industry.</p> <p>The expansion of this land use within an existing residential area is limited given potential issues of land use conflict and associated management measures to mitigate these impacts. The proposal to regularise the existing use may permit alteration and additions to the existing building on the site, however it is considered unlikely that the additional permitted use will result in a considerable expansion of operations at the site, over and above what is already occurring. Any alterations to or expansion of the existing use will require the prior development consent of Council.</p> <p>The impact on the ongoing operation of existing industrial areas within the Armidale area is considered low risk and manageable in the circumstances. The regularisation of existing light industrial land uses on the site will provide certainty for existing and future employment on the site.</p>
Land use conflict	<p>The proposal will allow for the ongoing use of the land for light industrial purposes and may facilitate some alterations and additions to the existing building on site. It is unlikely that the additional permitted use will result in a considerable expansion of operations at the site, over and above what is already occurring. Potential impacts will be further considered as part of any future development application lodged.</p>

Residential accommodation	<p>The proposal to regularise the use of the site for light industrial purposes involves the use of residentially zoned land for another purpose. The proposal could be viewed as reducing the amount of land available for residential purposes.</p> <p>Notwithstanding this, the site has been formally used for light industrial purposes since 2011 with the previous use as a bus depot approved in 1961. The loss of residentially zoned land is considered minor given the land has not been formally used for this purpose for a considerable period.</p> <p>Given the residential zone is to remain, the use of the site for this purpose into the future is still available to future occupants.</p>
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## 4.3 Infrastructure

The site has access to all essential services. The site is currently occupied by an existing building, which has been formally used for light industrial purposes since 2011 and enjoys existing use rights.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 10 working days.

The proposal is considered to be low impact as it regularises an existing land use on site. It is also a local matter affecting residents within the immediate locality. In accordance with the LEP Making Guideline, the maximum period of public exhibition for the standard category of the proposal is 20 working days. This recommendation forms part of the conditions of the Gateway determination

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted as it was deemed consultation was not required.

Due to the low impact, local nature of the proposal, it is not considered necessary for state agencies to be formally consulted.

## 6 Timeframe

Council does not specifically outline a time frame to complete the LEP.

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is low impact and a local matter the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal is not inconsistent with local and regional strategic planning policies;
- The proposal is expected to provide positive economic impacts with minimal environmental impacts; and
- Any site specific issues can be adequately considered and managed at the development application stage.

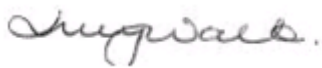
## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 6.1 Residential Zones is minor or justified.

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

1. The planning proposal should be made available for community consultation for a minimum of 20 working days.
2. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.
3. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



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