



Gateway determination report – PP-2025-1279

Amendment to clause 4.2A Erection of dwelling houses or dual occupancies on land in certain rural, residential and conservation zones of Armidale Regional Local Environmental Plan 2012

July 25



Published by NSW Department of Planning, Housing and Infrastructure

planning.nsw.gov.au

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure 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. 25 June 2025
Council meeting report 30 June 2025
Council meeting minutes 30 June 2025

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Armidale
PPA	Armidale Regional Council
NAME	Amendment to clause 4.2A Erection of dwelling houses or dual occupancies on land in certain rural, residential and conservation zones of Armidale Regional Local Environmental Plan 2012.
NUMBER	PP-2025-1279
LEP TO BE AMENDED	Armidale Regional LEP 2012
ADDRESS	Various
DESCRIPTION	Land zoned R5 Large Lot Residential
RECEIVED	10/07/2025
FILE NO.	IRF25/1556
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

1.2 Objectives of planning proposal

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

The objective of the planning proposal is to:

- Permit the erection of dwellings on lots created pursuant to clause 4.1(3A) and (3B) of Armidale Regional LEP 2012.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Armidale Regional LEP 2012 to allow dwellings to be constructed on lots in Zone R5 Large Lot Residential resulting from subdivisions permitted under clause 4.1(3A) and 4.1(3B).

The planning proposal includes a draft provision to amend clause 4.2A(3) with the proposed additional drafting shown in red:

4.2A Erection of dwelling houses or dual occupancies on land in certain rural, residential and conservation zones

(3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land—

(a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or

(ai) is a lot created under this plan, other than a lot resulting from a subdivision under –

(i) Clause 4.2(3)

(ii) Clause 4.1E(3), if the erection of a dual occupancy or dwelling house was not permissible immediately before the subdivision.

The above drafting seeks to enable dwellings on any lot created under this LEP, with the exception of clause 4.2(3) and 4.1E(3).

Clause 4.2(3) relates to lots created for primary production purposes and clause 4.1E(3) relates to lots created as a result of boundary adjustments which do not increase the opportunity for additional dwellings.

The objectives of the planning proposal could also be achieved by directly referencing lots created pursuant to the subdivision clause 4.1(3A) rather than any lot created under this plan. It is recommended that the draft provision is removed from the planning proposal and replaced with a 'plain English' description as the most appropriate revision to clause 4.2A to facilitate the objective of the planning proposal will be determined by Parliamentary Counsel's Office. A condition of the Gateway determination is recommended to this effect.

1.4 Site description and surrounding area

The planning proposal does not apply to a specific site. The proposal applies broadly to R5 Large Lot Residential zoned land within the LGA.

The planning proposal will allow for a dwelling or dual occupancy to be permitted on lots created by clause 4.1(3A) and (3B). These provisions allow the subdivision of R5 Large Lot Residential zoned land that is serviced by a water reticulation system and sewerage system to create lots that are at least one hectare or at least 4000m² for land to which Guyra LEP 2012 applied before the commencement of the Armidale Dumaresq Local Environmental Plan 2012 (Amendment No 16).

1.5 Mapping

The planning proposal currently includes mapping illustrating only the large lot residential areas surrounding Armidale. It is recommended that mapping showing all existing large lot residential areas across the LGA be included prior to agency and community consultation. A condition of the Gateway determination is recommended to this effect.

2 Need for the planning proposal

The planning proposal seeks to correct an anomaly in the Armidale Regional LEP 2012 that facilitates subdivision of R5 Large Lot Residential Land, however, does not allow for dwellings to be constructed on these lots due to the drafting of clause 4.2A.

Clause 4.1(3A) allows for lots within the R5 Large Lot Residential zone to be subdivided to create lots that are of at least one hectare or at least 4000m² for land to which Guyra LEP 2012 applied before the commencement of the Armidale Dumaresq Local Environmental Plan 2012

(Amendment No 16). Subdivision of this land is permitted despite the minimum lot size shown on the lot size map, which is typically two hectares in the R5 zone within the Armidale Regional LGA.

Clause 4.2A(3)(a) provides for the erection of dwelling houses or dual occupancies on land within the R5 zone, but only if the subject lot is of a size that meets the lots size shown on the minimum lot size map.

The Council report indicates that Council has approved a number of these subdivisions and is currently having to approve subsequent applications for dwellings via clause 4.6 Exceptions to development standards. This requires the applications to be presented to and determined by the elected council at its meetings, rather than by staff under delegation, causing unnecessary delays to the assessment process. The proposed amendment will remove the need for a clause 4.6 exception to the development standard and enable the development applications to be approved by Council staff under delegation.

The objectives of the R5 Large Lot Residential Zone include to provide residential housing in a rural residential setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. The lots created under clause 4.1(3A) are required to be serviced by a water reticulation system and are of sufficient size to manage wastewater on site. Allowing the subdivision of R5 Large Lot Residential Land without the ability to erect a dwelling house is considered inconsistent with the intent and objectives of the zone and the existing subdivision provision.

It is considered that this amendment will enable a more efficient use of existing R5 zoned land, will streamline the development approval process for houses on lots already created under clause 4.1(3A), and is the most appropriate means to achieve the objectives of the planning proposal.

3 Strategic assessment

3.1 Regional Plan

The planning proposal is considered to be generally consistent with the vision, objectives and overall intent of the New England North West Regional Plan 2041.

3.2 Local

The planning proposal is consistent with the Armidale Local Strategic Planning Statement 2024 and Armidale Regional Local Housing Strategy 2024.

The Armidale Regional Local Housing Strategy 2024 planning priority 2.3(d) is to investigate a reduction in the minimum lot size provision for land zoned R5 Large Lot Residential from two hectares to 8,000m² and remove the bonus provision under clause 4.1(3) based on capacity for on-site sewerage management and existing services.

This demonstrates Council's intent to facilitate smaller lot sizes on R5 zoned land consistent with the objectives of this planning proposal. Should Council's investigations result in a future planning proposal to reduce the minimum lot size applying to the R5 zoned land, the bonus provision clause 4.1(3A) will likely be removed and the need to reference this clause in 4.2A will no longer be necessary.

Until those investigations into the suitability of on-site sewerage management systems on smaller lots are completed Council is not in a position to amend the Lot Size Map. It is therefore considered appropriate that clause 4.2A is amended, as detailed in this planning proposal, until Council has completed the investigations necessary to implement action 2.3(d) of the Armidale Regional Local Housing Strategy. The proposed amendment to clause 4.2A will streamline the development approval process for houses on lots already created under clause 4.1(3A).

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except those discussed in Table 3 below:

Table 3 - 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	Justifiably inconsistent	The planning proposal is inconsistent with this direction as it will enable dwellings on lots within the R5 large Lot Residential zone which includes land that is flood prone. The planning proposal seeks to correct an anomaly within the Armidale Regional LEP to enable dwellings on lots created under existing provisions of the LEP. The proposal will not result in a significant increase in residential density of flood prone land. The flood risk will be able to be considered with the development applications for both the subdivision of the land and the erection of the dwelling. Existing controls for flood prone land are contained within Council's LEP and DCP. Any inconsistency with this direction is considered to be of minor significance.
4.3 Planning for Bushfire Protection	Unresolved.	The planning proposal is inconsistent with this direction as it amends provisions for R5 land, including land mapped as being bushfire prone. This direction requires consultation with NSW Rural Fire Service before consistency can be determined.

3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The planning proposal does not rezone any particular land, however will provide a dwelling entitlement on lots within the R5 Large Lot Residential Zone created by clause 4.1(3A). This is consistent with the intent and objectives of the R5 zone and the existing subdivision provision. No specific environmental impacts will result from this proposal. Dwellings enabled by this planning proposal will also remain subject to Council's development assessment process at which stage environmental impacts can be considered.

4.2 Social and economic

The proposal seeks to correct an anomaly within the LEP and permit dwellings on lots created under clause 4.1(3A). The lots created through this provision are of a sufficient size to provide for a dwelling and onsite sewage management. It is considered that this planning proposal will generally

provide for positive social and economic outcomes by removing the need for consideration of a 4.6 variation for development applications thereby streamlining the development approval process for houses on these lots.

4.3 Infrastructure

No additional infrastructure will be required as a result of this planning proposal. The lots created under existing provision 4.1(3A) are required to be already serviced by a water reticulation system and a sewerage system.

5 Consultation

5.1 Community

Council proposes a community consultation period of 20 working days.

The exhibition period proposed is considered appropriate, and forms the conditions of the Gateway determination.

5.2 Agencies

The proposal does not propose consultation with any agencies but notes that the Gateway determination will likely require consultation with NSW Rural Fire Service.

It is recommended NSW Rural Fire Service be consulted on the planning proposal, as is necessary to satisfy local planning direction 4.3, and given 30 working days to comment.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

An LEP completion date of nine (9) months from the date of the Gateway determination is recommended in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. 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 generally consistent, or justifiably inconsistent with the State, regional and local plan making framework, it is recommended 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 seeks to correct an anomaly within Armidale Regional LEP 2012 to allow for dwellings to be erected on lots created by existing provisions in clause 4.1(3A) of the LEP without the need to vary development standards under clause 4.6;
- The proposal is consistent with the intent and objectives of the R5 Large Lot Residential zone; and

- The proposal is generally consistent, or justifiably inconsistent with the State, regional and local planning framework

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Remove the draft wording of clause 4.2A(3) and replace it with a plain English explanation of the intended changes to the clause; and
- Mapping showing all existing large lot residential areas across the LGA be included prior to agency and community consultation.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 4.1 Flooding are minor; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation the planning proposal is to be updated to:
 - Remove the draft wording of clause 4.2A(3) and replace it with a plain English explanation of the intended changes to the clause.
 - Mapping showing all existing large lot residential areas across the LGA be included prior to agency and community consultation.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of nine (9) months be included on the Gateway.



(Signature)

22 July 2025 (Date)

Paul Garnett

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22 July 2025

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