



BUSINESS PAPER

ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 27 February 2019
4pm

at

Guyra Council Chambers

Members

Councillor Simon Murray (Mayor)
Councillor Dorothy Robinson (Deputy Mayor)
Councillor Peter Bailey
Councillor Jon Galletly
Councillor Diane Gray
Councillor Libby Martin
Councillor Andrew Murat
Councillor Debra O'Brien
Councillor Margaret O'Connor
Councillor Ian Tiley
Councillor Bradley Widders

SUPPLEMENTARY AGENDA

INDEX

11	Reports for Decision - Environment and Infrastructure	
11.2	FOR DECISION: Planning Decision: Draft Amendment No 7 to Armidale Dumaresq Local Environmental Plan 2008	3
11.3	FOR DECISION: Local Approvals Policy - Solid Fuel Heating Appliances	16
16	Committee Reports	
16.6	FOR DECISION: Minutes - Community Wellbeing Advisory Committee - 6 December 2018 and 31 January 2019	20

Item:	11.2	Ref: AINT/2019/03389
Title:	FOR DECISION: Planning Decision: Draft Amendment No 7 to Armidale Dumaresq Local Environmental Plan 2008	Container: A15/6623
Author:	Ambrose Hallman, Service Leader Sustainability and Development	
Attachments:	<ol style="list-style-type: none">1. Planning Proposal as exhibited2. OEH Response - Amendment 7 to Armidale Dumaresq Council LEP3. RMS Response - Amendment 7 to Armidale Dumaresq Council LEP 2012 - Rezoning of Airport East Precinct to IN2(2)4. Submission concerning Planning Proposal No 7 at Industrial Land Rezoning at 10588 New England Highway and 19 Kia-Ora Road5. Submission concerning Armidale East Airport Business Park6. Voluntary Planning Agreement updated with OEH comments dated February 2019 watermarked7. Explanatory Note to accompany Voluntary Planning Agreement updated with OEH comments draft February	

RECOMMENDATION:

- a) That Council exercise its local plan making delegations under Section 3.36 of the Environmental Planning and Assessment Act 1979 to adopt and make Draft Amendment No 7 to Armidale Dumaresq Local Environmental Plan 2012, consistent with Planning Proposal No 7.
- b) That the proponent and persons who made submissions during the public exhibition period for Planning Proposal No 7 be advised of Council's decision.
- c) That Council enter into a Voluntary Planning Agreement (VPA) (amended as detailed in this report) for the contribution towards the roundabout currently under construction, closure and reconnection of Mills and Kia Ora Roads through the new roundabout, NBN extension, Embellishment of Open Space, Bio Banking Offsets for the land the subject of the Planning Proposal No 7 opposite the Armidale Regional Airport.
- d) That subject to the above the Mayor and CEO be authorised to sign and seal the VPA accompanying Planning Proposal No 7 and other documents required for its registration on title for Lot 1 DP 1173995, Lot 1 DP 1195163 and Lot 14 DP 5188.

Background:

At its meeting on 24 August 2015 Council resolved to commence Planning Proposal No 7 (amended November 2018). The Proposal seeks to amend Armidale Dumaresq Local Environmental Plan 2012 (ADLEP 2012) by rezoning 10558 New England Highway and 19 Kia-Ora Road, Armidale, comprising Lot 1 DP 1173995, Lot 1 DP 1195163 and Lot 14 DP 5188 (subject site), from RU4 Primary Production Small Lots to IN2 Light Industrial and amend the minimum lot size across the site from 40ha to 1,000m² to cater for the change in land zoning.

At its meeting on 25 November 2015 Council resolved in closed session to enter into a Voluntary Planning Agreement (VPA) with the Developer proposing the Developer make monetary contributions for:

1. A new roundabout currently under construction servicing the New England Highway, Armidale Regional Airport, Airport subdivision and the subject site;
2. The extension of the National Broadband Network;
3. The provision of open space; and

4. The provision of land and vegetation management for bio-banking.

In addition, the developer is to undertake all the works of road closure and reconnection to close the intersections of Kia-Ora Road and Mills Road with the New England Highway and to reconnect both roads to the New England Highway at the roundabout.

Planning Proposal No. 7 (amended November 2018) was forwarded to the Department of Planning and Environment for an altered Gateway Determination, which was issued on 12 October 2015, with extensions granted on 8 July 2016, 12 April 2017, 20 October 2017, 13 May 2018 and 22 October 2018.

The Planning Proposal including the accompanying Voluntary Planning Agreement were publicly exhibited from 15 November 2018 to 14 December 2018 and referred to Office of Environment and Heritage (OEH) and Roads and Maritime Authority (RMS). Four submissions were received one from each government agency and two from members of the public.

The submission from OEH recommends a small alteration to the VPA (this is discussed later in the report). No other changes to the exhibited Planning Proposal or VPA are considered necessary resulting from the public exhibition.

It is recommended that Council use its local plan making delegations under Section 3.36 of the *Environmental Planning and Assessment Act 1979* to adopt and make Draft Amendment No 7 to ADLEP 2012, consistent with Planning Proposal No 7 (amended November 2018).

Report:

Planning Proposal No. 7 applies to Lot 1 DP 1173995, Lot 1 DP 1195163 and Lot 14 DP 5188 at 10558 New England Highway and 19 Kia-Ora Road, Armidale. The initial Planning Proposal was prepared by New England Surveying and Engineering on behalf of the owners of the subject site.

The Proposal seeks to amend ADLEP 2012 by:

- Rezoning 10558 New England Highway and 19 Kia-Ora Road, Armidale, RU4 Primary Production Small Lots to IN2 Light Industrial and;
- Altering the minimum lot size standard applying to the subject site from 40 hectare to 1,000m² to enable subdivision.

The Planning Proposal submitted by New England Surveying and Engineering was reviewed by Council officers and alterations made to ensure the relevant matters have been addressed in accordance with the Department of Planning and Environment's *A Guide to Preparing Planning Proposals*. These changes covered the following matters:

- Expanded and revised information and assessment in relation to the environmental impacts on the site, including additional information about the biodiversity attributes of the site;
- Current updated information in relation to the availability and future demand for industrial land in Armidale Regional LGA;
- The results of a desktop assessment in relation to the potential for aboriginal heritage on the site;
- Addressing inconsistencies with the S. 9.1 Directions (previously known as S. 117 Directions) applicable to the proposal;
- Ensuring the information in the planning proposal is stated in a succinct way and duplication is reduced.

At its 24 August 2015, Council considered a report on the Planning Proposal No. 7 and the following recommendation was adopted by Council (Minute No: 198/15):

a) *That the Planning Proposal for Draft Amendment No 7 to Armidale Dumaresq Local Environmental Plan 2012, prepared by consultants New England Surveying and Engineering and amended by Council, which proposes to:*

- *rezone land at 10558 New England Highway and 19 Kia-Ora Road, Armidale (Lot 1 DP 1173995, Lot 1 DP 1195163 and Lot 14 DP 5188) from RU4 Primary Production Small Lots to IN2 Light Industrial, Armidale, and*
- *alter the minimum lot size standard applying to Lot 1 DP 1173995, Lot 1 DP 1195163 and Lot 14 DP 5188 from 40ha to 1000m².*

And that these proposals be forward to the Department of Planning and Environment with a request for a Gateway Determination, in accordance with the Environmental Planning and Assessment Act 1979.

b) *That a further report be provided to Council following public exhibition of the Planning Proposal for Draft Amendment No.7.*

c) *That the applicant, New England Surveying and Engineering, be advised of Council's resolution.*

d) *That Council provide the opportunity for the applicant to provide further information in regard to Question 7 of Section C of Planning Proposal Draft Amendment 7 for inclusion prior to referral for a Gateway determination.*

The proponent was advised of Council's decision following the Council meeting and the requirement for additional information to satisfactorily address Question 7 of the Planning Proposal. The proponent subsequently provided the additional information which was included in the Planning Proposal referred to the Department of Planning.

Altered Gateway Determination

Planning Proposal No 7 was forwarded to the Department of Planning and Environment on 30 September 2015, with five requests for an altered Gateway Determination, with the most recent issued by the Department on 22 October 2018. The altered Gateway Determinations extended the timeframe for finalising the LEP amendment to 19 March 2019.

As part of the Gateway Determination, it was agreed that the Planning Proposal's inconsistencies with S.9.1 Directions 1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation and 4.3 Flood Prone Land are of minor significance and that no further approval is required in relation to these Directions.

However, agreement was to be obtained from the Department's Secretary to comply with the requirements of the following S.9.1 Directions:

- 3.5 Development Near Licensed Aerodromes and
- Planning for Bushfire Protection.

In relation to 3.5 Development Near Licensed Aerodromes, the northern part of the subject site is opposite Armidale Regional Airport on the New England Highway. All of the subject site is within 1km of the Airport and is wholly located within the Airport Buffer.

The Planning Proposal was referred to the Commonwealth Department of Infrastructure and Regional Development (DIRD) which recommended that Council consider the National Airport Safeguarding Framework (NASF) during assessment of any individual future development proposals. The NASF includes six guidelines related to land uses on or near airports that provide guidance on managing the impacts of airport noise as well as the risks of building generated windshear and turbulence, wildlife strikes, wind turbine farms, distractions to pilots from lighting and intrusions into protected airspace.

Consideration of the guidelines in relation to the Planning Proposal has concluded that while the proposed IN2 zoning permits a range of land uses, most of the permitted land uses are likely to consistent with the NASF guidelines. However, some types of development may impact on airport operations depending on the characteristics of the development as well as its location in relation to the airport runways and approaches. The impact of a development on airport operations and any mitigating measures would need to be assessed at the development application stage for each proposal.

In relation to 4.4 Planning for Bushfire Protection, the subject site is not identified as bushfire prone land on Council's Bushfire Prone Land map certified by the Commissioner of the Rural Fire Service. However, there is bushfire prone land in the vicinity being approximately 455 metres to the south of the subject site.

The NSW Rural Fire Service (RFS) was consulted regarding the planning proposal following the Gateway Determination. The RFS raised no concerns or issues in relation to bush fire.

At its meeting on 25 November 2015 Council resolved in closed session to enter into a Voluntary Planning Agreement (VPA) with the Developer proposing the Developer make monetary contributions for:

1. A new roundabout currently under construction servicing the New England Highway, Armidale Regional Airport, Airport subdivision and the subject site;
2. The extension of the National Broadband Network;
3. The provision of open space; and
4. The provision of land and vegetation management for bio-banking.

In addition, the developer is to undertake all the works of road closure and reconnection to close the intersections of Kia-Ora Road and Mills Road with the New England Highway and to reconnect both roads to the New England Highway at the roundabout.

A copy of the Voluntary Planning Agreement and a plain English version of the Voluntary Planning Agreement is Attached to the report.

Public exhibition

The Gateway Determination required that the Planning Proposal be exhibited for a minimum of 28 days and the notice requirements and exhibition material comply with the relevant section of the Department's *A Guide to Preparing Local Environmental Plans*.

Section 7.5 of the Environmental Planning and Assessment Act 1979 also requires the Voluntary Planning Agreement to be exhibited for a minimum of 28 days.

The Planning Proposal, Voluntary Planning Agreement and supporting documentation was placed on public exhibition from Thursday, 15 November 2018 to Friday, 14 December 2018, at:

- Council's Armidale Office,
- Armidale Dumaresq Memorial Library, and
- Council's website at www.armidaleregional.nsw.gov.au

Adjoining owners were notified in writing of the public exhibition and a notice was advertised in Council's newspaper in the Armidale Express and Guyra Gazette on Wednesday, 14 November 2018.

During the exhibition period, Council received four submissions, two from government agencies and two from members of the public, copies are attached. The main issues raised in the submissions received are addressed below:

NSW Government Transport – Roads and Maritime Services (RMS), who in summary provided the following comments:

- The timing of the closure of the junctions of the New England Highway with Kia-Ora and Mills Roads is unclear;
Comment:
The VPA with the developer of the land requires the developer to contribute the full costs incurred to formally close the existing access points of Mills and Kia-Ora Road with the New England Highway and the reconnection of these roads back to the proposed new roundabout. The VPA requires the existing access point of Mills Road to be closed and reconnected to the new roundabout prior to the issue of the subdivisions certificate for stage one of the development. The closure of Kia-Ora Road and reconnection to the new roundabout will occur prior to the issue of the subdivision certificate for that part of the subject land that adjoins Kia-Ora Road. The developer is currently in consultation with the RMS to close Kia-Ora Road sooner than proposed in the VPA. Council's Traffic Advisory Committee considered a report on 4 December 2018 to close Kia-Ora Road and recommend supporting the closure and realignment of Kia-Ora Road.
- The road closure of Kia-Ora and Mills Roads will require agreement from Roads and Maritime Services because they junction with a State Highway;
Comment:
At the time of the road closures and realignment Roads and Maritime Services will be consulted and agreement received.
- Any roadworks on the highway associated with the closure will require a S138 concurrence and Road Occupancy Licence (ROL) from Roads and Maritime Services;
Comment:
At the time of a Section 138 Road Act being assessed concurrence and Road Occupancy Licence will be sought from Road and Maritime Services.
- A setback with a landscaped buffer should be provided along the New England Highway's frontage to minimise visual impacts on traffic.
Comment:
This matter will be addressed during the Development Application process for any future industrial subdivision. The property owner is aware of this requirement.

Office of Environment and Heritage, who in summary provided the following comments:

- The Voluntary Planning Agreement requires the Developer to make a 'BioBanking Contribution' under the Voluntary Planning Agreement. However with commencement of Biodiversity Conservation Act 2016 (BC Act) any future development application may likely trigger the threshold requirement under the new BC Act. OHE recommend the Voluntary Planning Agreement be amended as follows:
 1. Should the development application trigger the Biodiversity Offset Scheme, then the "BioBanking Contribution" will not be required, and instead an offset will be provided by the Developer, as determine following application of the Biodiversity Assessment Method (BAM) by and Accredited person, and in accordance with the requirements of the BC Act. This required offset can be provided for from the "BioBanking Contribution", or
 2. In the situation that the proposed development does not trigger the Biodiversity Offset Scheme, the Developer must contribute the "BioBanking Contribution" to the Council, to compensate for the anticipated loss of native vegetation on the subject site.

Comment:

The recommended changes to the VPA ensure the loss of native vegetation is offset under, either the VPA or under the Biodiversity Assessment Method of the BC Act at the time the Development Application for the subdivision is determined. This means the developer is not required to provide Bio Offset at the Planning Proposal stage and then again at the Development Application stage. OEH's change in approach is due to the introduction of the new Biodiversity Conservation Act during this Planning Proposal process.

OEH's response was forwarded to the proponent and after late negotiations the Voluntary Planning Agreement has been amended as following:

"The amount of \$294,779 for the cost of a BioBanking/vegetation offset for the developed land (being for the use of land, and the acquiring and planting vegetation plus a five year maintenance contribution). The contribution is identified in two components as the Land Utilisation Contribution and the Vegetation Management Contribution in Item 7 to Schedule 1 (BioBanking Contribution). Unless the subsequent Development Application on the subject land triggers the Biodiversity Offset Scheme, then the \$294,779 "BioBanking Contribution" will not be required, and instead an offset will be provided by the Developer, as determined following application of the Biodiversity Assessment Method (BAM) by an Accredited Person, and in accordance with the requirements of the Biodiversity Conservations Act (BC Act). This offset credit requirement, or part there of, under the BC Act must be provided from the available "BioBanking Contribution" surplus located on Council land."

Given the amendment is small and is not deemed to significantly alter the intention of the exhibited Voluntary Planning Agreement re-notification is not considered necessary.

This amendment means the Council land identified for the 'BioBanking Contribution' is to be used for the offsets requirements under either legislative pathway, which is consistent with Council's previous resolutions.

- Concerning flooding OEH supports the finding of the planning proposal given the scale of the gully and its proximity from Saumarez Creek combined with the slope of the land is unlikely to present as a significant constraint. The flood/drainage impacts should be addressed as development application stage.
Comment:
Agree the impact of flooding/drainage can be assessed at the development application stage.
- Overall the OEH supports the outcomes and recommendations of the Aboriginal Culture Heritage Assessment Report and does not consider that any further Aboriginal Cultural Heritage constraints existing to affect the proposed rezoning.
Comments:
Noted

Public submissions are summaries below:

- Land use conflicts between residential and primary production and the new proposed industrial land use.
Comment:
This concern can be addressed at the development application stage assessing each development to limit potential land use conflicts. The closest dwelling is setback 170 metres from the boundary. In addition, the land is proposed to be zoned IN2 Light Industry.
- Lowering land values
Comment:
This is not a matter for consideration under planning legislation.
- Changes to the lifestyle amenity of the adjoining land
Comment:
This rezoning should not impact on the lifestyle amenity of the adjoining lots.
- The increase in traffic movements
Comment:
The locality will ultimately experience increased traffic however, the construction of the New Roundabout and the internal road design should minimise most negative impacts.
- Reduction in the neighbourhood security and privacy
Comment:
The Planning Proposal should not significantly reduce the security and privacy of the locality. Council is required to consider individual Development Applications

for buildings which involves an assessment of the proposed designs under Crime Prevention Through Environmental Design Guidelines.

- The increase in the likelihood of noise and air pollution impacting the rural lifestyle amenity.
Comment:
The Planning Proposal should not significantly effect noise or air pollution in the locality. Council is required at the Development Application stage to assess these impacts and business must comply with the provisions of the Protection of the Environmental Operations Act. Also the uses permitted in the IN2 Light Industry may not have a significant impact.
- The closure of Mills Road and its rerouting through and industrial estate.
Comment:
This matter is a requirement of the Road and Maritime Service and integral to the operation of the roundabout currently under construction.
- Risk of closure of existing B Double livestock transport access.
Comment:
The current use of Mills Road as B Double access will not be impacted until Mills Road is closed. The design of the subdivision should address B Double access from the New England Highway Roundabout (currently under construction) to enable B Double access to the existing properties currently accessing via Mills Road.

The submission also submitted the following modification should the objections not be accepted.

- Maintain the existing Mills Road access or alternatively, redirect Mills Road from its current intersection with the New England Highway to run parallel with the New England Highway to the new roundabout to avoid driving through the proposed IN2 industrial land.
Comment:
This matter is a requirement of the Road and Maritime Service and integral to the operation of the roundabout currently under construction. The possible option of running a road along the side of the New England Highway is not likely to be supported by RMS. However this option can be considered during the Development Application process.
- Create a buffer zone between the proposed IN2 industrial land and the existing RU4 rural small holdings along existing Mills Road and Kia Ora Road adjoin the IN2 industrial land.
Comment:
A buffer should not be required between the land uses however this matter can be considered further at the Development Application stage.
- Landscape the proposed IN2 industrial land along Mills Road.
Comments:
This matter can be considered further during the assessment of the Development Application which is currently in pre-lodgement.

- Create a tree bio bank on the proposed IN2 industrial land along Mills Road.
Comment:
This matter should be addressed at the Development Application which is currently in pre-lodgement.

- Maintain multi combination B Double livestock transport access.
Comment:
This can be considered at Development Application stage and should be achievable

- Has the rezoning and subdivision even been approved yet? I see that lots are already drawn up and roads mapped out.
Comment:
No the rezoning has not been approved, it is planned to be presented to the February council meeting. The Development Application will be placed on public exhibition for comment.

- Where can I see the submission to the council of these subdivisions and the proposed roads?
Comment:
They were not included in the Draft LEP Amendment No 7. When the Development Application is lodged Council will notify the application accordingly.

- When are Mills Road and Kia Ora Road going to be closed and redirected (funded by the developer) onto the new roundabout?
Comment:
Mills road is proposed to be closed in stage one of the subdivision and the developer is working closely with RMS to close and reroute Kia Ora Road in the near future.

- Types of industry that will be permitted at the gateway to Armidale.
Comment:
The zone is proposed to be changed to IN2 Light Industrial, the objectives of the IN2 zone is:
 - To provide a wide range of light industrial, warehouse and related land uses.
 - To encourage employment opportunities and to support the viability of centres.
 - To minimise any adverse effect of industry on other land uses.
 - To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
 - To support and protect industrial land for industrial uses.*A number of industrial land uses like heavy industries are prohibited within the proposed zoned. The individual land uses will be assessed for suitability during the future individual development applications for each site within the subdivisions.*

- What is to become of Lagoon Gully?
Comment:

The will be a matter for assessment during the subdivision development application. It is worth noting OEH had no objection based on flooding and impacts on Lagoon Gully. Any future subdivision will need to deal satisfactorily with Lagoon Gully and stormwater management.

- Will there be a 'greenbank' or areas with compensatory plantings to offset the clearing of all the trees on the proposed development site?

Comment:

Yes, see the comments under OEH's submission concerning the Biodiversity Conservation Act requirements.

Making LEP amendment

Along with the Gateway Determination of 12 October 2015, Council received authorisation to use its delegations and exercise the Minister's functions under Section 3.36 of the *Environmental Planning and Assessment Act 1979* (EPA Act) to make Draft Amendment No. 7. The local plan making functions under Section 3.36 include:

- making arrangements for the drafting of an LEP amendment to give effect to the final Planning Proposal
- following completion of community consultation, deciding:
 - to make an LEP amendment (with or without variation of the Planning Proposal), or
 - not to make the proposed LEP amendment.

It is recommended that Council exercise its local plan making delegations to adopt and proceed to make Draft Amendment No. 7, consistent with exhibited Planning Proposal No. 7 (amended November 2018).

Community Engagement and Internal Consultation

Planning Proposal No 7 (amended November 2018) was placed on public exhibition Thursday, 15 November 2018 to Friday, 14 December 2018 in accordance with the Gateway Determination and adjoining owners were also notified in writing.

Financial Implications

Section 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 costs and expenses incurred by Council in undertaking matters required in relation to the Planning Proposal. Council has entered into an agreement with the landowner for Planning Proposal No. 7 to pay for costs associated with preparing the Proposal.

Good Governance

Statutory

An LEP is a statutory document and preparing a Planning Proposal and making of an amending LEP must be in accordance with the EPA Act and EPA Regulation.

Policy risk management

There are no known natural hazards or risks applying to the land subject of the Planning Proposal.

Integrated Planning and Reporting Framework

By providing new light industrial sites, the Planning Proposal is considered to support the following Strategic Objectives in Council's Community Strategic Plan 2013-2028:

- Support our local community;
- Develop and sustain the economic growth of the local government area.

Sustainability Assessment

Social and physical infrastructure

The proposed zoning will provide land suitable for future industrial development that will increase the availability of employment generating land. This may attract additional industrial business in Armidale and increase the local population. The population increase may place some demand on existing facilities. It is unlikely that the population increase generated by this development will require significant new social infrastructure. The Voluntary Planning Agreement identifies the infrastructure and environmental contributions required to be paid by the Developer.

The initial response from RMS dated 30 November 2015 noted that the provision of suitable public transport services is a critical action in addressing the likely impacts of the proposed industrial precinct. The case for the provision of public transport should be determined once the land subdivision is developed. In the RMS response in 2018 this matter of public transport was not raised as a concern.

Heritage

European Heritage

There are no heritage listed items in LEP 2012 on the subject site. However, the site is located approximately 1.8kms north east of Saumarez Homestead, which is an item of State heritage significance and is listed on the State Heritage Register. The Planning Proposal was referred to the NSW Heritage Council in accordance with the Gateway determination. The NSW Heritage Council advised that the Planning Proposal adequately addresses the potential impact on Saumarez Homestead, noting that the views to and from the homestead are protected by a ridgeline that has a higher elevation than both the homestead and the subject site. Further, established trees at the homestead will help minimise any visual impact.

Aboriginal Cultural Heritage

Council's records do not identify any known Aboriginal objects or Aboriginal places of heritage significance on the subject site. However, there is considered to be potential for Aboriginal objects or places to be present, given that part of the site has not been heavily modified by past or present land uses; the location of two known Aboriginal heritage sites within a kilometre of the subject site; and the presence of old growth trees and an ephemeral creek (Lagoon Gully) on the subject site.

An Aboriginal Cultural Heritage Assessment was undertaken in March 2016 which found:

- A modified tree – at the time of inspection the tree was in poor condition and close to death;
- The site is part of a cultural 'gateway' area for traveling Aboriginal groups. The nature of this cultural value is such that it would not impact on the proposed development;
- No areas were specifically identified on the site as meeting the criteria for potential archaeological deposits.

The Assessment concluded that the Planning Proposal will potentially result in harm to Aboriginal objects, in the form of damage to the modified tree. Given the poor condition of the tree and it being close to death the applicant is currently liaising with the Armidale Cultural Centre and Keeping Place to investigate options for salvage and repatriation off-site. OEH are happy with this option.

Environmental protection

Due to pre-Gateway determination advice being received from the OEH on the September 2015 Existing Biodiversity Report for the subject site, and upon referring the initial Planning Proposal to the Department of Planning and Environment for a Gateway determination, the determination required further consultation with the OEH, who subsequently recommended that prior to public exhibition of the Planning Proposal:

“The extent of the area of land containing Ecologically Endangered Communities (EEC’s) should be verified on ground and be zoned Environmental Protection;

The applicant prepare and offset proposal for the biodiversity impacts of the proposed rezoning if sufficient justification can be provided that areas of high conservation value cannot be zoned Environmental Protection. The OEH recommended use of the BioBanking Assessment Methodology to determine the type and quantum of offsets required. Offsets must be secured by an appropriate mechanism in perpetuity and accord with the OEH principle for the use of biodiversity offsets in NSW;

Further consideration be given to the presence of the threatened species Koala and any koala habitat within the subject site. The Planning Proposal should respond to this information by giving further consideration to the application of land use zones to protect the habitat and the species on the subject site.”

A Biodiversity Assessment in December 2016 for the subject was undertaken which included a field survey to refine the vegetation mapping and fill any gaps in the mapping and information for the 2015 Report and filled. The findings of the Assessment are summarised as follows:

Threatened Flora

No individual or threatened flora species under the Threatened Species Conservation Act (TSC Act) were observed during field surveys. Should the rezoning of the Site proceed detailed Assessments of Significance in accordance with S.1.7 of the EPA Act will be carried out as part of any future development application for subdividing the land.

Threatened Fauna

The Site provides potential habitat for Powerful Owl, Little Eagle, Red Goshawk and the Koala, all of which are threatened species under the TSC Act. Consideration of the seven factors under S.1.7 of the EPA Act indicates that the rezoning and subsequent development of the Site is unlikely to have a “significant effect” on threatened species.

Endangered Populations

No endangered population are listed as occurring within 10km of the Site and none are likely to occur.

Endangered Ecological Communities

Two EECs occur on the Site, comprising approximately 6.5ha of Ribbon Gum-Mountain Gum-Snow Gum Grassy Forest Woodland (Ribbon Gum grassy woodland) and 0.6ha of White Box-Yellow Box-Blakely’s Red Gum Woodland (Blakely’s Red Gum woodland).

The Site is opposite Council's industrial land adjoining the Armidale Regional Airport which is already zoned IN2 Light Industrial and subject to a development application for subdivision. Part of this land is also subject to Planning Proposal No. 9 that seeks to amend LEP 2012 to enable business park and airport related development in addition to light industrial land uses.

A flora and fauna assessment has been undertaken for Council's land (Airport West Site) and, like the Assessment for the subject site of this Planning Proposal, found the following EEC's under the TSC Act present on the land:

- Ribbon Gum-Mountain White Gum-Snow Gum EEC
- White Box-Yellow Box-Blakely's Red Gum Woodland EEC.

While development of the Airport West and Airport East Sites are characterised by differing proponents and planning pathways they are, however, linked by the intention to develop a joint voluntary biodiversity offset to be implemented through a Voluntary Planning Agreement between the proponent for this Planning Proposal and Council. The southern part of Council's land on the Airport West Site, being Lot 3 DP 1198787 and Lot 21 DP 817347, has been identified as a biodiversity offset area to compensate for the loss of the EEC's associated with the rezoning of the subject site and development of the northern section of Council's land at the Airport West Site.

On 22 February 2017, OEH advised that it supports the intention of the owners of the Airport East and Airport West Sites to jointly establish an offset area and recommended that Vegetation Management Plan (VMP) be provided to ongoing management and restoration of the offset area. This should be secured within the Voluntary Planning Agreement for the sites.

On 11 February 2019, Council received a submission from OEH which recommend the Voluntary Planning Agreement be altered to make the required Biodiversity Offset for the subject site only being required should the subsequent Development Application for the industrial subdivision not trigger Biodiversity Offsets under the Biodiversity Conservation Act 2016. This has been reflected in the Voluntary Planning Agreement and discussed above in this report.

Item:	11.3	Ref: AINT/2019/03786
Title:	FOR DECISION: Local Approvals Policy - Solid Fuel Heating Appliances	Container: ARC16/1082
Author:	Christopher Bonning, Environmental Health Officer	
Attachments:	1. Public submissions in relation to exhibition of solid fuel heating appliances policy (identities censored) 2. Draft Local Approvals Policy - Solid Fuel Heating Appliances 3. Summary of submission including submitters names	

RECOMMENDATION:

- a) That the 23 written submissions received by the public in relation to the exhibition of the “Local Approvals Policy - Draft Solid Fuel Heating Appliances” be noted and acknowledged by Council.
- b) That based upon the content and nature of the submissions, that the “Draft Local Approvals Policy – Solid Fuel Heating Appliances” be amended to ensure any solid fuel appliance to be installed in the Armidale Urban Area shall have an overall average efficiency of not less than 60% as tested and calculated in accordance with Standard 4012, and have an appliance particulate emission factor, as tested and calculated in accordance with Standard 4013, not greater than: 1g/kg (for heaters without catalytic combustors), or 0.8 g/kg (for heaters with catalytic combustors).
- c) That with the above amendments, Council adopts the amended draft local policy under *Section 161 of the Local Government Act 1993*, subject to consent from the Departmental Chief Executive of the Office of Local Government for approval, prior to the Policy being adopted by Council, as the Policy contains exemptions for approval under Section 68 Local Government Act 1993.

Background:

On Wednesday 27 June the following recommendation was made to Armidale Regional Council:

- a) *That the Draft Local Approvals Policy – Local Approvals Policy for Solid Fuel Heating Appliances be endorsed;*
- b) *That the Draft Local Approvals Policy be placed on public exhibition for 28 days and be open for submissions for a period of no less than 42 days, in accordance with the legislation;*
- c) *That additional public notice be given in accordance with Regulation 77 of the Local Government (General) Regulation 2005; and*
- d) *That the Draft Local Approvals Policy – Local Approvals Policy for Solid Fuel Heating Appliances be submitted to the Departmental Chief Executive of the Office of Local Government for approval, prior to the Policy being adopted by Council, as the Policy contains exemptions for approval under Section 68 Local Government Act 1993*

The Armidale Regional Council adopted on Wednesday the 27 June 2018 to amend the draft Local Approvals Policy prior to receiving submissions from the community during formal exhibition of the Policy. The key single amendment was to change the proposed appliance

particulate emission factor, as tested and calculated in accordance with Standard 4013 from **1g/kg (for heaters without catalytic combustors) to 1.5g/kg (for heaters without catalytic combustors)**.

The Local Approvals Policy – Solid Fuel Heating Appliances was placed on exhibition in accordance with *Section 160 of the Local Government Act 1993*, and subsequently 23 submissions were received in relation to the draft policy. Of the 23 submissions, 22 submissions presented a view for Council to amend the Policy to include higher emission standards for wood heaters, amongst other matters, not considered relevant under this Local Approvals Policy. Please see copies of the submissions in the Ordinary Attachments.

Armidale Dumaresq Council has consistently over the last decade ensured that its Local Approvals Policy in relation to solid fuel heaters has required a more stringent emission criteria for solid fuel heating appliances, than the accepted National Australian Standard. This has been a strategy to ensure more efficient solid fuel heating appliances are installed within the Armidale Urban area to combat high levels of solid fuel heater emissions during winter.

It is recommended that Council amend the Local Approvals Policy to the previously drafted edition originally submitted on the 27 June 2018, the key single amendment being to change the proposed appliance particulate emission factor, as tested and calculated in accordance with Standard 4013 from **1.5g/kg (for heaters without catalytic combustors) to 1.0g/kg (for heaters without catalytic combustors)**. **This will ensure that the new Local Approvals Policy – Solid Fuel Heating Appliances is adopted in accordance with the requirements of Section 161 of the Local Government Act 1993 in accordance with consideration of the submissions received as part of the exhibition period.**

This will ensure that the Policy is amended to address the general nature of the submissions requesting for a more stringent emission standard as part of the Policy. This will ensure that a proactive approach is being taken to ensure that more efficiently operating and less polluting devices are installed within the Armidale Urban Area in response to ongoing high PM 2.5 concentrations recorded during winter periods. In addition this allows for a suitable balance of accepting applications for new solid fuel heaters to be installed, while continuing to strive for a more efficient minimum standard reflective of the serious winter wood smoke pollution problem in Armidale.

It is important to note that there are 400 wood heaters certified on the Australian Home Heaters Association website of these 400, 151 have an emissions rating of 1 µg/kg or less. In this regard, 38% of all certified wood heaters in Australia are within the proposed new Armidale Regional Council allowable emissions criteria and will not significantly affect persons access to a sufficient range and type of heater models.

Comparing this with the EPA Regulation of 1.5 µg/kg or less (from 1 September 2019), 74% of all certified wood heaters in Australia are within the EPA Regulation.

General Context surrounding Local Approvals Policies

A Local Approvals Policy is revoked within 12 months of a newly elected Council unless it is re-adopted during the intervening period. The Local Approvals Policy acts as a guidance document which sets out the framework and criteria for installing a Solid Fuel Heater in the Armidale Regional Council Local Government Area.

The Local Approvals Policy for Solid Fuel Heating Appliances outlines minimum criteria for assessment when determining approvals for the installation of Solid Fuel Heating Appliances

within the Armidale Regional Council Local Government Area. The Policy also provides a range of other factors for consideration when installing a solid fuel heating appliance such as minimum installation standards and requirements for consideration of neighbouring dwellings and structures in relation to nuisance smoke.

Under the proposed Local Approvals Policy, from September 2019, any solid fuel appliance to be installed in the Armidale Urban Area subject to a Section 68 Application under the Local Government Act 1993 shall have an overall average efficiency of not less than 60% as tested and calculated in accordance with Standard 4012, and have an appliance particulate emission factor, as tested and calculated in accordance with Standard 4013, not greater than:

- 1g/kg (for heaters without catalytic combustors), or
- 0.8 g/kg (for heaters with catalytic combustors).

The area remaining of the Local Government Area outside of Armidale Urban Area shall be subject to an exemption under the Policy where no S68 application is required for the installation of a Solid Fuel Heating Appliance, subject to specific conditions.

Approval to install a solid fuel heating appliance is not required outside of the Armidale Urban area (see Appendix 1) subject to the following conditions:

1. The appliance must have a certificate issued by a body approved by the EPA and certifying that all heaters of that model:

- comply with Standard 4012 Domestic solid fuel burning appliance - Method for determination of power output and efficiency and Standard 4013 AS/NZS 4013 – Domestic Solid fuel burning appliances - Method of determination of flue gas emission, and
- have an overall average efficiency of not less than 60% as tested and calculated in accordance with Standard 4012, and
- have an appliance particulate emission factor, as tested and calculated in accordance with Standard 4013, not greater than:

- A. 1.5 g/kg (for heaters without catalytic combustors), or
- B. 0.8 g/kg (for heaters with catalytic combustors).

2. Be installed by a suitably experienced and qualified person in accordance with the requirements of the National Construction Code Australia, AS/NZS 2918 – Domestic Solid fuel burning appliances – Installation, and with consideration of guidelines outlined in the NSW EPA document “Selecting, installing and operating Domestic Fuel Heaters.

(Refer to copy on Council’s Website within the Solid Fuel Heaters section)

Key Issues and Risks

The adoption of any Local Approvals Policy must be conducted in accordance with the requirements of the Local Government Act 1993. The exhibition and submissions period as conducted and required under s160 of the Act have allowed for transparent engagement with

the community. The adoption of any Policy must be conducted after consideration of the submissions received as part of the exhibition period.

Integrated Planning and Reporting Framework

Community Strategic Plan – Leadership for the Region

L2 – Council exceeds community expectations when managing its budget and operations

L2.2 – Council implements a business excellence program across its operations

L2.2.2 – Implement a Good Governance Framework

Stakeholder Engagement

A Councillor workshop was held on the 6 June 2018 to brief councillors on the Draft Local Approvals Policy. This process, conducted in accordance with the requirements of the Local Government Act 1993 and associated regulation, will ensure a transparent community engagement process.

The exhibition and submissions period was conducted during July and August 2018 with 23 submissions being received by Council and have been reviewed accordingly and are attached to the Ordinary Attachments. Public Notice was provided within the Armidale Express and at Armidale Regional Council Offices. All exhibition and public notice requirements as stipulated by the Local Government Act 1993 and Local Government Regulation 2005 have been met in entirety.

Section 162 of the Local Government Act 1993 states “A council has no power to adopt that part of a draft local approvals policy that specifies circumstances in which (if the policy were to be adopted) a person would be exempt from the necessity to obtain a particular approval of the council, unless the council has received the Departmental Chief Executive’s consent to the adoption of that part.”

Financial Implications

N/a

Next Steps

Council will seek consent and approval from the Departmental Chief Executive of the Office of Local Government as the Policy contains exemptions for approval under Section 68 Local Government Act 1993.

Item: 16.6 **Ref:** AINT/2019/00239
Title: FOR DECISION: Minutes - Community Wellbeing Advisory Committee -
6 December 2018 and 31 January 2019 **Container:** ARC16/1052
Author: Aimee Hutton, Interim Program Leader Community Services
Attachments: 1. Community Wellbeing Advisory Committee - Terms of Reference
[January 2019]
2. Minutes - Community Wellbeing Committee - 06 December 2018
3. Minutes - Community Wellbeing Committee - 31 January 2019

RECOMMENDATION:

That the Minutes of the Community Wellbeing Advisory Committee meeting held on 6 December 2018 be noted;

- (a) That the Armidale Neighbourhood Centre be included as a member of the Community Wellbeing Advisory Committee and that the Terms of Reference be amended to reflect this change;**

Management Comment: At the Ordinary Council meeting held on 12 December 2018, Council resolved "to undertake a review of the current Committee Structure, including the number of committees, composition and the Terms of Reference." Management will give consideration to the membership of the Community Wellbeing Committee through the review process.

That the following recommendations from the Community Wellbeing Advisory Committee meeting held on 6 December 2018 be adopted:

- (b) That Council provide information about sources of possible assistance to all residents along with rates notices, including notices of arrears;**
- (c) That Council recommend to the Joint Organisation of Councils that they contact Rotary and other organisations raising funds for drought relief, to offer assistance in distributing funds and identifying community needs and also consider the possibility of setting up a telephone hotline/one-stop-shop to simplify the process of finding help and assistance when people are in need.**

That the Minutes of the Community Wellbeing Advisory Committee meeting held on 31 January 2019 be noted and the following recommendation adopted;

- (d) That the Committee strongly supports the initiatives as detailed in the Australian Local Government Association Federal Election Initiatives publication. In particular, the Committee seeks action from Council to support the following initiatives: -**
- Promote equitable access to community services**
 - Promote communities from the impacts of natural disasters**
 - Promote healthier communities**
 - Foster Indigenous well-being and prosperity, and**
 - Support local government's current work in addressing affordable housing and homelessness issues.**