



Armidale Dumaresq

Development Control Plan 2012

Section 1

Development Control Plan General Matters

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Part 1 Introduction

1.1 Name of this Development Control Plan

The name of this document is the *Armidale Dumaresq Development Control Plan 2012 (DCP 2012)*.

1.2 Commencement of this Development Control Plan

The *Armidale Dumaresq Development Control Plan (DCP) 2012* was adopted by Council on 24 June 2013 and came into effect on 26 June 2013.

1.3 Repeal of Armidale Dumaresq Development Control Plan 2007

This *Armidale Dumaresq DCP 2012* replaces the *Armidale Dumaresq DCP 2007*. Applications lodged for assessment up to the date of adoption of this Plan will be assessed under the DCP applicable at the lodgement date of the application.

1.4 Legislative background

This DCP has been prepared pursuant to Part 3 of the *Environmental Planning and Assessment Act 1979 (EPA Act)*. Development Consent under the EPA Act is required for most building works, subdivision of land, and changes in land use. Consent may also be required for undertaking 'works' such as significant earthworks. However, some projects with minor environmental impact can be carried out without development consent. Relevant State government State Environmental Policies and Council's Local Environmental Plan (LEP) identify whether consent is needed to carry out a particular development.

1.5 Relationship to the Armidale Dumaresq Local Environmental Plan 2012

LEPs are statutory planning instruments and should be read with this document. LEPs establish the type of development that is permissible in particular locations. This is done mainly through land use zoning and other statutory provisions and standards outlined in the LEP.

Where an LEP permits and a development application must be submitted, this DCP provides further guidance and more detailed requirements that specific proposals must address.

This DCP supports the LEPs applying to Armidale Dumaresq local government area. Armidale Dumaresq LEP 2012 (LEP 2012) applies to most of Armidale Dumaresq. The areas that LEP 2012 does not apply to are identified on the LEP maps as a 'Deferred Matter'. In the 'Deferred Matter' areas Armidale Dumaresq LEP 2008 (LEP 2008) applies.

A copy of our current LEPs and any amendments can be obtained from the NSW Parliamentary Council's website, www.legislation.nsw.gov.au (under 'Environmental Planning Instruments in force'); from Council's offices at 135 Rusden Street, Armidale; or, on Council's website www.armidale.nsw.gov.au

1.6 Relationship to legislation, plans and policies

Other Federal, State and local legislation and Council policies may apply to your development, including matters relating to issues such as infrastructure, signage, access for people with a disability, health requirements, engineering, and utility services.

Where there is an inconsistency between the provisions of an environmental planning instrument, (such as a State Environmental Planning Policy Council's LEP 2012 and this DCP, the environmental planning instrument will prevail to the extent of the inconsistency.

1.7 Aims and objectives of this plan

The aim of this Plan is to explain the legislative planning requirements for development activity in the Armidale Dumaresq local government area, including land subdivision, land use, and construction and building.

The objectives of DCP 2012 are:

- O.1 To outline the controls required for development (including subdivision and construction) in specific land use zones.
- O.2 To encourage excellence in design to ensure buildings maximise solar access to living areas and private open space, and use any site to its best advantage.
- O.3 To promote health, safety and amenity in the planning, design, construction and performance of individual buildings and the built environment.
- O.4 To protect the environment, including the impacts on land, air and water, flora and fauna, habitats and biodiversity from the built environment.
- O.5 To promote sustainability in infrastructure provision, construction materials, waste minimisation, and energy and water saving products.
- O.6 To preserve and protect rural and scenic landscapes.
- O.7 To avoid land use conflict and protect amenity.
- O.8 To conserve and promote the heritage attributes.

1.8 Land to which Development Control Plan 2012 applies

DCP 2012 applies to all land in the Armidale Dumaresq local government area.

The following table outlines the current zone names in the LEP 2012 applying to land in the Armidale Dumaresq LGA.

| | | | |
|-----|-------------------------------|-----|----------------------|
| R1 | General Residential | B2 | Local Centre |
| R2 | Low Density Residential | B3 | Commercial Core |
| R5 | Large Lot Residential | B4 | Mixed Use |
| RU1 | Primary Production | B5 | Business Development |
| RU3 | Forestry | B7 | Business Park |
| RU4 | Primary Production Small Lots | IN1 | General Industrial |
| RU5 | Village | IN2 | Light Industrial |
| E3 | Environmental Management | RE1 | Public Recreation |
| E4 | Environmental Living | RE2 | Private Recreation |
| SP2 | Infrastructure | | |

1.9 Amendments to the development control plan

Any amendments made to the DCP can only take effect after a process of public exhibition, consideration of submissions, formal adoption by Council and notification of commencement in a local newspaper.

Adopted amendments to this DCP at the date of publication of this edition are set out in the table below:

| <i>Amendment Number</i> | <i>Section of the DCP Amended</i> | <i>Details of Council Resolution and Date of Effect</i> |
|--------------------------------|--|--|
| 1 | Part 5 and 6 deleted | Resolution Number 279/19 Date of Effect 29 October 2020 |

Part 2 What is a development control plan?

Development Control Plans (DCPs) provide specific, more comprehensive guidelines for certain types of development, or areas and precincts within Armidale Dumaresq. The detailed guidelines contained within a DCP are in addition to the provisions of the legal planning instrument (SEPP or LEP). DCPs are important in the planning system because they provide a flexible means of identifying additional development controls for addressing development issues without the need for a formal statutory plan.

Part 3 Variations to development controls

3.1 Variations for individual applications/assessment on merit

All development applications are assessed in relation to the relevant legislation, and the merits and circumstances of the application. The development controls in this DCP are a set of 'deemed to satisfy' provisions that Council is satisfied will achieve the relevant objectives. Council will consider alternative solutions where an Applicant can demonstrate that the development would satisfy the objectives. Alternative solutions must demonstrate that a better outcome can be achieved than would be the case if the development standard were applied.

Where applicants wish to apply for variations to controls in this DCP, we recommend early discussion with planning staff.

Please refer to the provisions in Clause 4.6 of the LEP 2012 where it is proposed to vary a development standard in the LEP.

Part 4 Structure of this plan

This Plan has the following six sections:

Section 1 – Development control plan general matters

Section 1 includes material which has general application and explains what a DCP is; and where and when it applies. This Part also explains the process of development consent. It does not outline the provisions for Exempt Development or Complying Development. These matters are dealt with in the *State Environmental Planning Policy (Exempt and Complying Development) Code 2008* and other legislative instruments.

Where development consent is required for construction, demolishing and subdivision, a development application is required by Council. This part sets out procedural and other matters relevant to Council's role as a development consent authority. This includes information to be addressed in applications, criteria for assessment and requirements for notifying the public of applications we receive.

Section 2 – Site analysis and land constraints

This section outlines the site issues to be addressed in a development application, including designing to manage site attributes and constraints.

Sections 3, 4 5 & 6 – Development controls

These sections describe the relevant controls for development applications for various types of development activity, such as subdivision, residential development, commercial development, industrial development and so on.

Section 7 – Locality specific precincts

This section contains information on special provisions applicable to particular localities. Please check whether your proposed development is located in one of these areas.

Part 5 Assessment of Development applications on council owned or controlled land

5.1 Who undertakes assessment on Council owned land?

When considering an application for land that Council owns or controls, and where Council would normally be the decision-maker, an independent assessment of the application will be undertaken by:

- a) appropriately qualified Council Officers not involved in preparing or commissioning the application; and/or
- b) appropriately qualified Consultants; and/or
- c) appropriately qualified officers of another Council.

Where outside assistance is required, Council will consider the estimated cost of the development, the public interest in the matter and the extent of any public concern that may be evident to Council on the matter. Small-scale, uncontroversial applications would always be processed 'in-house'. Consultants, or the staff of another Council, would normally be used where there are inadequate internal resources to separate Council's functions or the matter is considered significant in size, cost or in terms of public interest.

5.2 Determination of council applications

An application for land which we own or control will be determined at an open meeting of the Council, unless:

- a) the application involves matters which must be considered in private, pursuant to s.10 of the *Local Government Act 1993*, in which case we will first discuss the most appropriate means of dealing with the matter with our legal advisors or the state government; or
- b) the development does not involve:
 - i) 'Designated development' under the *Environmental Planning and Assessment Act 1979*; or
 - ii) development to which s.23G of the EP&A Act applies, involving determination by a Joint Regional Planning Panel; and
 - iii) development that is of State significance under the Act or which under any other relevant legislation requires determination by an agency other than Council; or
- c) the development is not being undertaken primarily to return a financial benefit to the council or the proposal relates to an operational activity of the council; and
- d) no objections have been received in response to public notification of the application; and
- e) the proposed development complies with all applicable development standards; and
- f) Councillors have previously been notified of the proposal;

in which case the application may be determined by the General Manager or delegate, provided they have not been involved in the preparation of the application.

Part 6 Political donations

Section 147 of the *Environmental Planning and Assessment Act 1979* makes specific provision for the declaration by applicants or persons making submissions (or their associates) in relation to development applications under the Act, where they have made certain political donations or gifts to a local Councillor or employee of Council.

Such declarations must then be maintained in a public register and included on Council's web site. Further details of the relevant requirements are included in Council's development application forms and notification letters.

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