

Introduction

If you are looking to buy a vacant rural or rural residential property, you have probably heard a real estate agent use the term “dwelling entitlement”.

A dwelling entitlement refers to the permissibility of a house under Council’s Local Environmental Plan or LEP.

Prior to selling or purchasing a block of land, it is recommended that you contact Council to determine whether or not a house would be permissible.

Doesn’t every property have the right to build a house?

No. A house can only be built on land where one of the standards identified by clause 4.2B of the LEP- [Tamworth Regional Local Environmental Plan 2010](#) has been satisfied.

What are those standards?

The standards identified by clause 4.2B are as follows:

1. The land meets the minimum lot size specified for the lot by the Lot Size Map.

The Lot Size Map comprises part of the Tamworth Regional Local Environmental Plan 2010 and may be viewed on the [NSW Legislation](#) website.

2. A dwelling was permissible on the land under the Barraba Local Environmental Plan 1990, Manilla Local Environmental Plan 1988, Nundle Local Environmental Plan 2000 or Parry Local Environmental

Plan 1987 immediately prior to commencement of the Tamworth Regional Local Environmental Plan 2010.

3. The lot was created pursuant to clause 11 or 12 of Tamworth Local Environmental Plan 1996 and, if the lot was created pursuant to clause 12 of that Plan, development consent has been granted for the purpose for which it was created.
4. The land comprises an existing holding.

An existing holding means all adjoining land, even if separated by a road or railway, held in the same ownership on the relevant date and at the time of lodging a development application for a house and includes any other land adjoining that land acquired by the owner since the relevant date. The relevant dates are:

- Manilla - 13 May 1988
- Nundle - 14 November 1982
- Parry - 9 October 1986.

5. There is a lawfully erected house on the land and the new house is intended to replace the existing house.

My land does not meet the minimum size shown on the Lot Size Map and I don’t know if it meets any of the other criteria?

If you would like to confirm whether a dwelling is permissible on land prior to selling or purchasing a block of land, a request for preliminary development advice or PDA must be submitted to Council.

A PDA is made in the form of a letter identifying the property, including contact details and stating the information required. A fee is payable in accordance with Council's Annual Operational Plan.

A written response confirming whether or not a dwelling is permissible on the land will be provided by Council, usually within three weeks of lodgement.

Does a PDA give me approval to build?

A PDA does not grant approval to construct a house and will not preserve any 'entitlement' should the LEP change.

To secure an approval to build a house, a development application must be submitted for the assessment of Council.

Are there other considerations?

Permissibility of a dwelling is only one matter for consideration when Council

makes an assessment of a development application. Other matters include:

- vehicle access;
- bushfire;
- on-site sewage disposal;
- potential site contamination;
- land use conflict; and
- flooding.

I already have a house, can I build another one?

The LEP provides for a second dwelling in certain circumstances. You should contact Council's Duty Planner for further information.

It's complicated! Need Help?

Contact Council's Duty Planner by phone on (02) 6767 5507 or call into Ray Walsh House in Peel Street, Tamworth for assistance between 9.00am and 10.30am or 3.30pm and 5.00pm weekdays.