



FACT SHEET

RE-SITING OF DWELLINGS TO RURAL LANDS DWELLING ENTITLEMENT EXEMPTION

Special Exemption Granted to Lismore City Council

The NSW Reconstruction Authority's (RA) Resilient Homes program has purchased approximately 500 homes across Lismore that have been identified as subject to very high future flood risk. In recognising the strong desire from the Lismore community to preserve and relocate dwellings that are structurally sound and contain local historical value, the NSW Department of Planning, Housing and Infrastructure (DPHI) has granted an exemption allowing Lismore City Council to consider development applications (DA) to relocate a buy-back dwellings to existing rural lots that do not currently have a dwelling entitlement.

What is a dwelling entitlement?

Clause 4.2B of the Lismore Local Environmental Plan (2012) sets out that rural allotments must meet minimum lot size requirements (generally 40ha, or 20ha in some areas) to have a dwelling entitlement. Many smaller rural lots also have dwelling entitlements because of the planning controls applicable at the time they were created. However, for various historical reasons, there are many rural allotments that do not meet the contemporary requirements for a dwelling entitlement. This is generally because they were historically part of a larger land holding.

A dwelling entitlement does not automatically mean a dwelling can be built (or relocated) on the land. Just that Council can consider a DA and assess the suitability of the site for a dwelling.

How do I know if an existing rural site has a dwelling entitlement?

Any lot that is above the minimum lot size automatically has an entitlement. Otherwise a dwelling entitlement search is required to be lodged with Council for staff to undertake research of historical records.

Can I subdivide my rural land to create a new site that is smaller than the minimum lot size and then lodge a DA for a re-sited dwelling?

No – the exemption only applies to existing allotments.

I own an existing rural site that does not possess a dwelling entitlement – how do I find out if this land is suitable for a re-sited dwelling?

Contact Council's Duty Planners on (02) 6625 0500 to obtain site-specific constraint information. They can provide preliminary advice on the types of things that would be considered by Council at the DA stage such as: buffers to existing agriculture and watercourses, suitable vehicle access,

biodiversity values and risk from bushfire and flooding etc. In general terms, sites that are within the flood planning area will not be considered suitable.

Can I sell my existing rural site to a someone looking to re-site their home that was purchased under the Resilient Homes Program?

Yes - however it is highly recommended to first contact Council's Duty Planner to discuss the suitability of the site, including dwelling entitlement status and specific site constraints.

I would like to purchase land to re-site my home that was purchased under the Resilient Homes Program – what should I do first?

Contact your case manager within the NSW RA prior to purchasing any land to confirm eligibility to re-site your home, including whether the proposed location meets the NSW RA's policies relating to Flood Prone Land.

Contact Council's Duty Planner prior to purchasing any land to discuss the suitability of the proposed location and obtain the available support material about lodging a DA.

Can houses that have been gifted be considered?

Yes.

How can I purchase a dwelling that has been included in the Resilient Homes Program?

The NSW RA are looking to run a pilot 'expression of interest' process to gauge interest in the purchase of flood-impacted dwellings. Contact the NSW RA for further information.

How do I lodge a development application to re-site a dwelling to rural land?

Any development application for a re-sited dwelling must address site constraints, address Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and also satisfy all Council and State Government planning requirements with respect to the location of dwelling e.g. potential bushfire and/or flood hazard, buffers, on-site effluent disposal, vehicle access etc.

Council has implemented a streamlined development assessment process specifically for the re-siting of dwellings that have been purchased under the Resilient Homes Program. Please contact one of Council's Duty Planners to discuss the process and access the [available support material](#) before commencing the preparation of your DA.

For any lot that does not have a dwelling entitlement under Clause 4.2B of the LEP, the application must also include a written request for a variation under Clause 4.6 (Exceptions to Development Standards).

What is a Clause 4.6 Exemption?

Clause 4.6 of the LEP allows Council to consider applications where:

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

In the circumstances where a DA is lodged to relocate a flood impacted buy-back dwelling to a rural lot that does not meet the minimum lot size requirement under CI 4.2B(3a), then the application should address the following:

- (a) The unique circumstances created by the NSW RA's Resilient Homes program that has resulted in habitable houses lying dormant in the midst of a housing crisis due to a lack of suitable land on which to relocate them, and
- (b) "sufficient environmental planning grounds" will need to address all of the factors the applicant believes make the site suitable for a re-sited dwelling. These could include issues such as: buffers to existing agriculture and watercourses, suitable vehicle access, biodiversity values and risk from bushfire and flooding etc.

The exemption provided by the DPHI to Lismore City Council means that Council's planning staff can now consider an exemption on the merits of the site rather than requiring a determination by the elected Council. This is intended to simplify and fast-track the process for such applications.

Can I re-site a dwelling that is not included within the Resilient Homes Program or build a new home upon a site without dwelling entitlement?

No - the DPHI's exemption does not cover these scenarios. The intent is to support the relocation of housing stock purchased by the NSW RA from the floodplain to more suitable locations.

Is there a time limit on the DPHI's exemption?

Yes – DAs must be lodged within 2 years of the exemption (before September 30, 2026) unless otherwise modified, revoked or extended.

Can I re-site a dwelling onto a lot that was created as a Primary Production Lot?

Rural lots created under Clause 4.2 of the LEP that have a covenant or other restriction on the title that precludes the erection of a dwelling may be considered.

In circumstances where Lismore City Council is identified as the authority that can amend the covenant, a request should be made in writing to Council with any development application so the circumstances and merit of the site can be considered.