



Zone and minimum lot size anomalies, Thornton North urban release area

Proposal Title :	Zone and minimum lot size anomalies, Thornton North urban release area		
Proposal Summary :	<p>The planning proposal would make a number of minor variations to where the rural and residential zones, and their corresponding minimum lot size standards, would apply in the Thornton North urban release area under the Maitland LEP 2011.</p> <p>The changes are proposed in order to align the LEP controls with how the land will develop on the ground, now that the land has been subdivided and in some instances earthworks undertaken.</p>		
PP Number :	PP_2015_MAITL_002_00	Dop File No :	15/13135

Proposal Details

Date Planning Proposal Received :	17-Sep-2015	LGA covered :	Maitland
Region :	Hunter	RPA :	Maitland City Council
State Electorate :	MAITLAND	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 1 - lots 1, 2, 3, 4 and 5 DP 1203865, part Billabong Parade		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 2 - lots 419 and 420, DP 1198603, part Dragonfly Drive DP 1168944		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 3 - lots 1, 4, 5, 42, 43 and 51 DP 1207153		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 4 - lots 101, 102, 103, 123, 124 DP 1194158, part Harvest Boulevard, part Seasons Circuit		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 5 - lots 108, 109, 110, 111, 112 and 113 DP 1194158, part Harvest Boulevard, part Seasons Circuit		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Item 6 - lot 1 DP 1207153		

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Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 7 - lot 3 DP 1207153**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 8 - 1329 DP 1204788**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 9 - lot 178 DP 1194158**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 10 - lot 178 DP 1194158**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 11 - part Darlaston Avenue DP 1207153**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Item 12 - part Harvest Boulevard DP 1194158**

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**

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RPA Contact Details

Contact Name : **Steve Daniels**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub **Lower Hunter Regional**

Consistent with Strategy : **N/A**

Regional Strategy : **Strategy**

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MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **PROPERTY DESCRIPTION**

Council has split the proposed changes into groups which correspond to a certain reason for making the change (eg items 6 and 7 are to be rezoned from residential to rural as the land is flood affected and will not be developed). The specific reasons for each change is considered in the 'Justification' section of this report.

Each item reflects a different portion of land and the maps in Part 4 of the planning proposal show the affected land in the Thornton North context. While some items have common property descriptions to other items (eg items 9 and 10), this is done to identify the specific part of that lot affected by the specific change.

ADDITIONAL INFORMATION

Additional information was requested of Council on 14 September 2015 and was provided by Council on 17 September 2015. It is this date that the proposal was considered adequate and lodged.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The Objectives succinctly explain the intent of the planning proposal. They are consistent with the Department's "A guide to preparing planning proposals".**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The Explanation of Provisions clearly explain the intent of the planning proposal. They are consistent with the Department's "A guide to preparing planning proposals".**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Mapping has been provided which identifies the site within the locality.

Existing zone and minimum lot size maps should be prepared which show the land affected and note the change proposed, in the context of the current LEP controls.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has not nominated a period for community consultation. As the proposal could be considered to be a routine, low impact proposal per the Department's guide, a 14 day consultation period is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons :

PROJECT TIMELINE

Council's project timeline suggests the plan would re-submitted to the Department to be made in December 2015 ie a three month timeframe. Given LEP drafting and finalisation would then need to occur, and noting delays associated with the new year break, a six month completion timeframe is recommended.

PLAN-MAKING DELEGATION

Council has accepted plan-making delegation however following difficulties with LEP drafting with a previous LEP amendment, Council no longer seeks to use delegation despite the time savings. Council should be given delegation should it change its position before it seeks to finalise this plan.

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Maitland LEP 2011 commenced in late 2011.

Assessment Criteria

Need for planning
proposal :

Council states the proposal is not the result of a specific strategy or study. Rather, Council has become aware of zoning anomalies in the Thornton North urban release area following the registration of approved subdivisions and overlaying of the new cadastre. Council proposes to correct these anomalies.

Four types of changes are proposed:

1) Items 1 to 5 would ensure land subdivided for residential purposes is zoned for residential purposes. This involves rezoning lands on the fringe of the existing rural/residential zone boundary from RU2 Rural Landscape Land to R1 General Residential. The minimum lot size would also change from 40 ha to 450 m2, aligning with the controls applying to the adjoining residential land.

2) Items 6 and 7 would ensure land affected by flooding constraints is zoned to reflect the hazard. This involves rezoning lands from R1 to RU2 and change to the minimum lot size from 450 m2 to 40 ha.

3) Items 8 to 10 would ensure land not be developed for residential purposes is given a rural zone. This involves rezoning several portions of land from R1 to RU2 and change to the minimum lot size from 450 m2 to 40 ha.

4) Items 11 and 12 would rectify lots currently split-zoned residential/ rural when they are to be developed for residential. This involves rezoning minor portions of lots currently zoned RU2, to R1 and applying a 450 m2 across the entire lot.

In making these changes, Council intends to ensure that the intended land use (eg residential or rural) for that land is accommodated, that the zone and minimum lot size reflects flood planning constraints (following subdivision works) and to ensure the planning controls align with the actual (new) cadastre.

The Department considers the need for the planning proposal to be adequately justified. It is effectively a house-keeping LEP which would ensure that the LEP controls align with the new lot layouts following the registration of subdivisions and associated works. The changes proposed are minor variations to parts of lots.

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Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

Council considers the proposal to be consistent with the regional strategy because the changes would facilitate the continued development of an urban release area identified in the strategy.

The Department notes the strategy is a high level strategic planning document which does not provide specific guidance relevant to this proposal. The PP is therefore not considered inconsistent with the LHRS.

MAITLAND +10 (COMMUNITY STRATEGIC PLAN)

Council states the proposal would help achieve the community strategic plan objectives, specifically that infrastructure is well planned, integrated and timely, and meets community needs now and into the future.

MAITLAND URBAN SETTLEMENT STRATEGY (MUSS)

Council states that the release area is identified in the MUSS. Further, that the proposal would facilitate development, consistent with the aims and objectives of the MUSS.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

State Environmental Planning Policy (Rural Lands) 2008 - the proposal could be considered inconsistent with this SEPP because by rezoning rural land to a residential zone, the proposal would be inconsistent with the SEPP's rural planning principles (subclause 7(a)).

However, as the land affected is small and the changes would ensure that the planning controls align with the registered subdivision, this inconsistency is justified and of minor significance.

SECTION 117 DIRECTIONS (s117)

The planning proposal is consistent with the relevant s117 directions except the following which are either inconsistent or require further work to be undertaken.

1.2 Rural Zones - the proposal is inconsistent because it would rezone rural zoned land to a residential zone (subclause 4a). Rezoning this land is proposed in order to align the planning controls with the approved development outcome and registered subdivision plan. In this context, the proposal's inconsistency with this direction is of minor significance. The Secretary should agree to the inconsistency accordingly (subclause 5d).

1.5 Rural Lands - the proposal is inconsistent with this direction because it is not consistent with the rural planning principles of the Rural Lands SEPP (subclause 3a). As discussed above in relation to the SEPP, this inconsistency is of minor significance. The Secretary should agree to the inconsistency accordingly (subclause 6b).

4.1 Acid Sulfate Soils (ASS) - the proposal affects ASS and several items in the PP would intensify land uses on ASS land. As no ASS study is proposed, the PP is inconsistent with this direction (subclause 6). Council notes that ASS was investigated at the DA stage and that an ASS management plan is in place. This inconsistency is of minor significance and the Secretary should agree to the inconsistency accordingly (subclause 8b).

4.3 Flood Prone Land - the proposal could be considered inconsistent because lands identified in flood planning areas would be rezoned from rural to residential (subclause 5).

The LEP maps those lands in Maitland LGA which are within the flood planning area. The land identified in items 1-5 are mapped. However, Council notes works has been undertaken on this land which has meant that it is no longer below the flood planning level. Similarly items 6 and 7 were previously not identified as flood affected and so were

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not mapped, but now are affected and should be mapped.

In the Maitland LGA, the RU2/ R1 zone boundary often reflects the boundary of the flood planning area. The changes proposed by Council for items 1-7 are therefore consistent with the approach Council has applied elsewhere. The Department does not raise issue with this approach and considers the inconsistency with subclause 5 of the direction is of minor significance (subclause 9b).

However, Council should update its flood planning maps so that flooding affectation is clearly enunciated in the LEP and to make the proposal consistent with subclause 4 of the LEP. In doing this, the proposal would no longer be inconsistent with subclause 5 of the direction. The Gateway condition should be conditioned accordingly. Council should update the Objectives and Explanation of Provisions section of the PP to reflect this change as well.

4.4 Planning for Bushfire Protection - consultation with the RFS is required before consistency with this direction can be determined (subclause 4).

Environmental social economic impacts :

The proposal involves minor variations to the current zone and minimum lot size for the Thornton North urban release area. This is to reflect registered subdivisions and site conditions following related works. This report also recommends amendments be made to the flood planning maps to reflect current flood affectation. Potential impacts may be further examined through the agency and community consultation process.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	NSW Rural Fire Service		

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

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Documents

Document File Name	DocumentType Name	Is Public
Request for Gateway Determination.pdf	Proposal Covering Letter	Yes
Council Report.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Locality Plan - Zones 1.png	Map	Yes
Locality Plan - Zones 2.png	Map	Yes
Locality Plan - Zones 3.png	Map	Yes
Locality Plan - Zones 4.png	Map	Yes
Locality Map - Minimum lot size.bmp	Map	Yes
Locality Map - Minimum lot size 2.bmp	Map	Yes
Locality Map - Minimum lot size 3.bmp	Map	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements

Additional Information : The planning proposal should be supported on the basis that the following conditions are to apply:

1. Prior to exhibition Council is to include maps in the planning proposal which show the existing zone and minimum lot sizes, identify the sites, and clearly state the proposed zone and minimum lot size for each site.
2. Prior to exhibition Council is to amend its flood planning maps to reflect the changes in flood prone land for the sites. Maps demonstrating the land affected by this change are to be included in the planning proposal. Council is to update the Objectives and Explanation of Provisions section of the planning proposal to reflect this change.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing local environmental plans (Department of Planning and Infrastructure 2013).
4. Consultation is required with the Rural Fire Service under section 56(2)(d) of the EP&A Act. The Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken, and information is provided, Council is to update its consideration of S117 Direction 4.4 Planning for Bushfire Protection.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

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6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Other matters:

The Secretary should agree that inconsistencies with section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.1 Acid Sulfate Soils is of minor significance; and

Council should be given plan-making delegation.

If supported, Council should be advised of these outcomes in the Gateway determination letter.

Supporting Reasons : per report

Signature: 

Printed Name: K O'Flaherty Date: 25/9/15

