

## Attachment 6

### Council Response to proponent's review of the Peer Review of the Statement of Heritage Impact by Dr Richard Lamb and Associates

#### A. Planning response to the peer review provided by Dr Richard Lamb and Associates.

Major points	Council response
<p><b>1. Development within the rural outskirts precinct has changed with expansive development with the western rural outskirts precinct. Morpeth Common is bounded to the north by residential housing. The site has always been zoned for recreational purposes and adjoins the Morpeth village.</b></p>	<p><b>Land that has been developed in the western outskirts precinct is physically separated from the village of Morpeth by a distance of nearly 300m and far removed from the site. The site is part of the Morpeth Common and is not considered appropriate for residential development. There has been minimal new development within the rural outskirts of Morpeth.</b></p>
<p>2. The Heritage Peer Review raises concerns with the alteration of views into Morpeth and across the site from Morpeth, and also the visual effects created by housing on site. Residential development was determined to be out of character and prominent in views from the streets, rural approaches and adjacent recreational land. The view corridor mapping within the DCP does not identify the views to or from the site as significant. Any development upon the land will impact in some way on these view corridors and modify the current environment. Similarly, the fencing of the land would limit views into and across the site. The proposed site is not dominant within the context of the sportsground.</p>	<p>The peer review assessment found that the views to the site would be compromised by any future development. It found that the elevated position on the rural edge of Morpeth makes the subject site highly visible from southern approaches. These views are described in the Maitland Citywide DCP in the context of 'rural approaches to the Morpeth township' Part E.3 Heritage Conservation Areas. The DCP states that there should be no residential development east of Edward Street.</p>
<p>3. The current RE2 Private Recreation zone allows for a range of uses incorporating built form and structures.</p>	<p>Any future development proposals on the RE2 Private Recreation land would be subject to development consent.</p>
<p>4. The site has been privately owned and is used for private recreation purposes. It has never been part of the public recreation area.</p>	<p>The proposal to allow residential development on private recreation land that adjoins public recreation land on three sides is not considered acceptable to Council. This is due to both heritage concerns and the impacts on the</p>

	<p>adjoining public recreation reserve. The peer review identifies the land to have historically been resumed for public recreational use in 1883. The subject land was gifted by Council to the bowling club for this purpose in the 1940s.</p>
<p>5.The Maitland Urban Settlement Strategy (MUSS) defines urban extension development and provides assessment criteria for potential proposals which are then considered by Council on their merits for rezoning. The site adjoins an urban area, is less than 15 hectares and has potential for less than 50 residential lots and thereby satisfies Council's definition. The Planning Proposal addresses the criteria in relation to character, environment, infrastructure and design. Council is able to consider the rezoning proposal on its merits.</p>	<p>It is considered that the proposal does not meet any of the relevant criteria for urban infill and extension sites under the MUSS.</p>
<p>6.This proposal is for a site specific rezoning rather than a new release area. It is located adjacent to an existing urban area, is already serviced, is within walking distance to shops and schools, and is located on both a school and a public bus route. It is unconstrained land by way of contamination, flooding, vegetation, and access. It meets the criteria of Council's MUSS to provide a higher priority to the development of lands in locations that are contiguous to existing urban areas and can be easily serviced, are unconstrained, and represent an effective utilisation of land. The development will contribute to the Morpeth community and will not provide a burden on Council for the additional supply of services and infrastructure.</p>	<p>Whilst it is acknowledged that the site is adjacent to an existing urban area, it is considered that the proposal does not meet any of the criteria for urban infill and extension sites under the MUSS. These criteria include a range of relevant factors such as lack of significant economic benefit, no identified need, heritage constraints and conflicts with adjoining recreation uses.</p>
<p>7.The Peer Review recognises that the fabric of the site is not of heritage significance. The report states that the site is of heritage significance as a result of the Morpeth context in which it exists. The Peer Review states that the subdivision design is inconsistent with and unresponsive to the residential settlement pattern, subdivision planning</p>	<p>The site is not located within the existing urban footprint for residential development in Morpeth and therefore is not consistent with the established pattern of subdivision. The site exists within the Morpeth Common which has historically been reserved for recreational purposes. Residential development in this area would be inconsistent with the</p>

<p>and underlying values of the wider HCA. Regardless of the type of development on the site, this eastern part of Morpeth will remain clearly separate from the other adjoining urban areas (Tenambit, Raworth, Berry Park and Chisholm) and will retain clearly defined limits due to the public ownership of land and flood constraints.</p> <p>The development of this site is consistent with the re-subdivision of existing lots and new development located within the village. Other than the grandstand associated with the adjacent sportsground, there are no Items of Heritage Significance located within close proximity of the site. The development of the site will not conflict with any views to listed heritage items or landmark buildings.</p>	<p>values of the Morpeth Heritage Conservation Area and contrary to related Council policies protecting Morpeth. The site has never been part of the urban footprint of Morpeth and residential development would be entirely incongruous with the site and its rural surrounds.</p>
<p>8.The Peer Review raises concern about the application to decrease the permissible lot size in the MLEP. Under Council's LEP 2011, there is no current minimum lot size restriction over the land. A minimum lot size of 450m<sup>2</sup> was suggested as part of the rezoning, which is consistent with the lot size map over Morpeth (LSZ_006).</p>	<p>The Peer Review comments relate to the proposed rezoning and subdivision and the impact of the anticipated residential density outcomes on the site of 39-47 persons per hectare (20-30 residences).</p>
<p>9.Council's LEP currently permits the redevelopment of the residentially zoned land within Morpeth for the subdivision of land into two or more lots equal to or greater than 300m<sup>2</sup>, and the erection of a dwelling house on each lot. The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity within residential zones.</p> <p>A recent example of such redevelopment is located in Edward Street. The development of the subject site is not out of character with such redevelopments occurring within Morpeth.</p>	<p>The proposed site is located outside the village of Morpeth in relation to residential subdivisions. Housing diversity is supported in Morpeth, provided it is consistent with Council's DCP and Morpeth Management Plan.</p>
<p>10.The planning proposal and concept development plan, as well as the current DA lodged with Council for the adaptive reuse of the former bowling club building for a childcare centre, all acknowledge the retention of the existing fig trees</p>	<p>Noted. The retention of trees is important in any proposal for the site, but their role in screening development is considered minimal in the context of the overall visual impact of development of the site.</p>

<p>along the Edward Street frontage of the site.</p>	
<p>11. Concept design layout</p> <p>a) Streetscape and screening The Peer Review states that “the relationship between the existing bowling club building and adjacent sports fields is already insensitive and there is no merit in its retention as a screening device.” The existing building is proposed to be reused as a childcare centre and will include car parking and playground areas and the secure fencing of the site. The location of the building, the materials and its external appearance, are established and already act as a buffer between the sportsground and the site. The fencing of the site will further limit views into the site. Any future development of the site can be designed to address Council’s requirements. Future development on the site will continue to be subject to Council approval.</p> <p>b) Access  The Peer Review states that the site is directly on the axis of one of the primary east-west streets (John Street) of Morpeth. It is not proposed to extend John Street into the site, but rather retain the existing access and the established fig trees. This is a design element which can be further discussed. There are differing opinions in the methods proposed to preserve the existing character and amenity of Morpeth. It was not proposed to mimic the existing development patterns but rather differentiate the development from the existing town.</p>	<p>Noted. The subject of this report is the potential rezoning of this site for residential purposes. Council considers that there is an unacceptable impact on the adjacent playing fields if this land were to be developed for residential purposes.</p> <p>Any approval of the existing site or building for a future use would be subject to Council consent conditions.</p> <p>Noted.</p>
<p>c) Characteristic grid pattern and urban form of Morpeth. The Peer Review assesses works in the concept plan that do not form part of the planning proposal to rezone the land. Matters relating to streetscape and</p>	<p>Noted. The Peer Review assesses proposed works to assist in developing a recommendation about the suitability of future development of this site for residential purposes and the typology of proposed buildings and associated</p>

<p>presence to public domain, fencing and landscaping opportunities, can be considered in relation to a specific design for development following consideration to rezone the land.</p>	<p>works.</p>
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B. Heritage response to the peer review provided by Dr Richard Lamb and Associates.

<b>Major points</b>	<b>Council response</b>
<p>1.The street is the limit only of the street grid pattern and not of past or present residential development. It is a fact that the existing layout includes historic and post-War development along Edward Street, and along Duckenfield Road to the south. Existing residential development to the east of Edward Street includes:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the modern residence on the south-east corner of Edward Street and Brisbane Fields Road;</li> <li><input type="checkbox"/> the eight dwellings occupying the irregularly-shaped block bounded by Edward Street, Swan Street and Brisbane Fields Road; and</li> <li><input type="checkbox"/> the five residences at the intersection of Edward Street and Duckenfield Road.</li> </ul> <p>The Concept Plan does not propose the extension of the grid pattern, any more than does the existing residential development here referred to.</p>	<p>The historic development of housing along Edward Street and Duckenfield road is acknowledged. This site is not located within the existing urban footprint for residential development in Morpeth and therefore is not consistent with the established pattern of subdivision. The site exists within the Morpeth Common which has historically been reserved for recreational purposes. Residential development in this area would be inconsistent with the values of the Morpeth Heritage Conservation Area and contrary to related Council policies protecting Morpeth.</p> <p>It is considered that as stated in the peer review, the predominant character of the east side Edward Street, south of Close Street and Brisbane Fields Rd is that the outlook is to vegetated rural or recreational land and that this continues to Duckenfield Road.</p>
<p>2.Historic themes and processes such as changes in technology, siltation and later regulation of the river, rise of irrigated agriculture economy, population drift to the city, decline of rural industry and pressure for heritage tourism has influenced but had little negative impact on the principles governing the settlement pattern and urban form of the town.</p> <p>This statement does not take account of</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the construction of the Morpeth branch railway, which significantly altered the urban form of the town through the demolition of a comparatively large number of waterfront buildings</li> </ul>	<p>With few exceptions, development of Morpeth has been undertaken within the town bounds of the original subdivision. There has been no residential development within the Morpeth Common which was reserved for recreational purposes in 1883.</p> <p>The predominant street character of the east side of Edward Street is rural or recreational as it always historically has been. This character element is extremely important in maintaining the integrity of the town which has been consistently protected.</p>

<ul style="list-style-type: none"> <li>□ the consequent discouragement of urban development between the railway and the riverfront;</li> <li>□ the pre- and post-War replacement by industrial premises of riverfront land to the east of Robert Street vacated by the Newcastle and Hunter River Steamship Company consequent upon the decline of river shipping; and</li> <li>□ the development, following the closure of the Morpeth branch railway, of housing on the site of the former Edward Street railway terminus and station, on the northern side of Swan Street east of George Street.</li> </ul>	
<p>3. In an elevated position on the rural outskirts of Morpeth, the subject site is highly visible from southern approaches. The site is immediately apparent in the context of heritage items and the underlying wider historical context of Morpeth.</p> <p>It is agreed that the site is visible from the southern approaches. It is, however, no more or less visible than any of the surrounding context. It is submitted that the entire township of Morpeth is immediately apparent in these contexts.</p>	<p>The development of the site will be highly visible due to its location within the Morpeth Common. This view is supported by the Peer Review prepared by Dr Richard Lamb that assessed both the visual and heritage impacts of rezoning and development of the site. It finds that this site, in particular, forms an expansive component of the composition of views entering the town from the south. There is no significant presence of housing east of Edward Street, south of the Close Street intersection.</p>
<p>4. The site is located within the Rural Outskirts Precinct, and has historically been included as part of the recreational lands. It has operated as a bowling club, held in private ownership, and has not been precluded from development. It is considered to represent part of the urban built form of Morpeth, but not part of the residential footprint.</p> <p>The land is privately owned, and regardless of a rezoning, can be developed with more “built form”, whether for a recreational purpose or for tourist and visitor accommodation or other permissible uses. The design and layout of future development will be the subject of a future DA.</p>	<p>As the site is located within the Morpeth Common and is zoned for recreational purposes, it is only appropriate that the site be considered to be developed for suitable uses permissible within the RE2 Private Recreation zone (subject to development consent).</p>
<p>5. The SoHI nowhere claims that existing residential development is significant, but notes that it is in there (see point 3, above), and goes on to describe it. The Rural Outskirts Precinct presently</p>	<p>It is noted that there is limited residential development within the Rural Outskirts Precinct. This site is different to other existing (limited) development in that it immediately adjoins Morpeth township</p>

<p>contains other areas of residential development primarily along the western edge with the expansion of Morpeth Manor and the redevelopment of the St John's College site which is still underway.</p>	<p>and was historically reserved for recreational purposes as part of Morpeth Common. It is also surrounded on three sides by public recreation land.</p>
<p>6.The Concept Plan is, as its name denotes, merely a concept. The layout, density and predominance of attached dwellings can be altered to better suit the relevant guidelines.</p>	<p>Noted.</p>
<p>7.Views to the east are already disrupted by the existing former clubhouse, as well as by trees associated with Morpeth Common.</p>	<p>It is considered that views to the east will be affected to a greater degree if the proposed site is developed for residential development. There is no significant presence of housing east of Edward Street, south of the Close Street intersection. Built form would be considered to disrupt existing rural views to the east and across the site from the intersection of John Street and Edwards Street.</p>
<p>8.It is noted that this statement that the proposed development would be out of character and impact on views does not suggest what the proposal would be out of character with. It is submitted that the proposed setback from Edward Street, and screening by the existing fig trees, would ameliorate views from the streets from the south, and that the other views are partly screened by the trees of Morpeth common. It is, surely, views from the public domain, rather than from private land to which entry is not available as of right, that must be addressed.</p>	<p>The proposed development is out of character with the existing area of Morpeth Common in which it is situated. The Common was created for recreation purposes in 1883. The Peer Review has established that views from public areas to the site would be significantly affected by future development of the site.</p>
<p>9.It is acknowledged that the subject site has never been residential, for much of the context of the site was historically subject to inundation. It is noted that the site is no longer used for private recreation. Council in 2006 declined to purchase the subject site for incorporation into Morpeth Common.</p>	<p>The subject site has been historically zoned for recreation purposes as part of the Morpeth Common. The fact that Council did not purchase the site in 2006 is not a relevant factor for consideration for the planning proposal.</p>
<p>10.In reference to the indicative concept plan for the proposal, it is noted that no extension of the historic grid pattern of the township is contemplated. It is again pointed out that the indicative subdivision</p>	<p>Noted. The proposed rezoning if developed for residential purposes would represent an extension of the township outside of the established grid pattern.</p>

<p>plan is, as its name denotes, merely indicative, and is not the subject of the current application.</p>	<p>It is the retention of urban residential development within the established historical pattern of the town which is of importance</p>
<p>11.It is open to Council to apply the residential precinct controls to any new residential development on the subject site. The indicative subdivision plan is merely indicative, is not the subject of the current application, and may be altered as required. The setback from Edward Street is partly mandated by the situation of the car park addressing Edward Street and the retention of the established fig trees.</p>	<p>It is not considered that any form of residential development is appropriate on this site and a planning proposal is not supported.</p>
<p>12.This point that the entire site is a heritage item appears to approach self-contradiction. The site does not constitute an LEP heritage item. The present SoHI has never concealed that the place is part of the wider Morpeth Heritage Conservation Area.</p>	<p>The location of the site in the Morpeth Common within the Heritage Conservation Area is a critical reason as to why this proposal should not be supported.</p>
<p>13.The EJE SoHI was prepared largely because the subject site is within the Morpeth Heritage Conservation Area. It notes the presence at Morpeth of LEP 2011 heritage items. Any development on the site would not restrict or compromise views to or from any listed heritage items or landmark buildings, or have a significant impact upon a listed item. The site is only located within the Heritage Conservation Area, and is not of itself an LEP 2011 heritage item.</p>	<p>Noted. See comment above.</p> <p>The fabric of the site is not of heritage significance, but the <b>site</b> is because of its role and contribution to the Conservation Area.</p>
<p>14.It is noted that a heritage assessment must be undertaken before a Statement of Heritage Impact is composed. It is clear in terms of layout, language and syntax that, as noted above, the actual Statement of Heritage Impact is contained within a separate section of the document; no attempt is made to pretend otherwise. This practice has, in the experience of EJE, never before been the object of criticism, whether in the Maitland local government area or any other local government area.</p>	<p>Noted.</p>
<p>15.The setback from Edward Street, together with the fact that the site is surrounded on three sides by the</p>	<p>Noted. Council and the Peer Review report considers that the built context of both Edward and Duckenfield Road</p>

<p>Morpeth Common, make it unlikely that the built context of Edward Street or Duckenfield Road would be specifically affected by the current application.</p>	<p>would be adversely affected by development on this site.</p>
<p>16. There has been no attempt to minimise the relationship between the subject site and the surrounding recreational/ancillary recreation land. It is noted that Section 1.3 of the SoHI states that the site 'is surrounded on three sides by Council land classified as Community Land'. A statement exists in the SOHI, as well as three aerial location images and nineteen photographs taken from ground level, demonstrate that the subject site is surrounded by recreational/ancillary land.</p>	<p>Noted. It is considered that description and analysis of the site does not adequately consider the relationship between the development and the surrounding recreational land.</p>
<p>17. It is noted that this statement supports EJE's conclusion that the proposal would not negatively affect individual heritage items. Whether the site may or may not, in the past, have had heritage significance is not at issue; the subject site is not an LEP 2011 heritage item, a fact unchanged by its being bordered by land used for recreation. It is noted that the existing former bowling club clubhouse is proposed to be adaptively re-used as a child care centre.</p>	<p>Noted. As stated earlier, while the proposal may not negatively affect existing heritage items, it would have a significant adverse impact on the Morpeth Heritage Conservation Area and is contrary to long standing protection of the town's originally planned boundaries, as articulated under the Maitland Citywide DCP and legally protected under the Maitland LEP.</p>
<p>18. <i>The Peer assessment found no close consideration of the heritage impacts of alternative uses for the site in the Heritage Assessment, as is required in the Questions to be Answered in a SoHI in the Heritage Manual as endorsed by the Office of Environment and Heritage.</i> It is submitted that some consideration of alternative uses was in fact provided in the EJE SoHI.</p>	<p>Noted.</p>
<p>19. It is a fact that uses other than residential development are permissible under the existing zoning. It is again submitted that this use is much more sympathetic to the Morpeth Heritage Conservation Area than, for example, a mobile home park or serviced apartments permitted with consent by the current zoning.</p>	<p>Any consent for a use permitted in the RE2 Private Recreation zone would require Council approval. Any proposed use would need to consider the heritage and other impacts of development on the site.</p>
<p>20. The Peer Review states in <i>Section 6,</i></p>	<p>Noted. Dr Lamb's point in the peer</p>

<p><i>Compatibility of Proposed Works with Maitland City-Wide Development Control Plan 2011, that the proposal is out of place in the SoHI as it is primarily a summary of material in the Planning Proposal. As there is in fact no application for works associated with the planning proposal, a great deal of the content of Section 6.0 is irrelevant.</i></p> <p>This is at variance with Dr Lamb's previous assertion as reproduced at point 6, above. It is, in any case, common that expert views may sometimes differ.</p>	<p>Assessment, where he is stating that if the proposed concept plan was being considered on suitable land outside the current context, it may be considered appropriate as it might satisfy the Maitland DCP. However, both the proposal and the site where it is located makes it unsuitable, within the context of Morpeth.</p>
<p><i>21. The Actual SoHI is in Section 7 of the EJE document. It does not answer the requisite questions in the Heritage Manual. It is a narrative, which repeats many of the statements already made in other parts of the Heritage Assessment as support for the draft Concept Plan.</i></p> <p>It is noted that such a criticism has never before been advanced with reference to the EJE Statements of Heritage Impact, many dozens of which have been submitted over the years in the context of diverse NSW local government areas, including the many such documents submitted to officers of Maitland City Council.</p>	<p>Noted. Council supports the Peer Review report on this matter.</p>
<p>22. It is the purpose of the Maitland Urban Settlement Strategy (MUSS) to identify opportunities for suitable development, and the issues arising therefrom. It is not part of its stated purpose to prohibit the residential development of land not identified within it. The MUSS is a strategy, not a Local Environmental Plan or Development Control Plan. The Planning and Development component of Council's website notes that</p> <p>The Maitland Urban Settlement Strategy 2001-2020 (MUSS) is reviewed every 5 years to ensure that:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> There is an adequate supply of land available across the local government area (LGA) to accommodate the anticipated population growth;</li> <li><input type="checkbox"/> To reflect any policy changes made by Council and/or other levels of</li> </ul>	<p>It is agreed that the purpose of the MUSS is to identify opportunities for suitable development and arising issues. This includes consideration of potential urban infill and urban extension sites. The proposed site does not comply with any of the criteria in the MUSS for infill and urban extension sites.</p>

<p>government; and</p> <p><input type="checkbox"/> <input type="checkbox"/> To keep the strategy current with new economic and urban development issues.</p>	
<p><i>23. The SoHI does not adequately address the visual effects and impacts of the proposal with regard to the Morpeth Management Plan (MMP) and the importance to be given to the conservation of the existing character of Morpeth, for economic and heritage tourism reasons etc.</i></p> <p>The MMP, at its time of promulgation (May 2000), provided ‘a framework for long term management, decision-making and action and will be implemented in accordance with available resources’, and aimed to ‘provide material that can be translated into Council’s Local Environment Plan (LEP) and Development Control Plan (DCP)’.</p>	<p>Noted. It is considered that the proposal is not consistent with the aims of the LEP, DCP and MNP in relation to Morpeth.</p>
<p><i>24. In my opinion the SoHI does not demonstrate that the potential impacts of rezoning of the subject site would not lead to significant impacts on visual and associated heritage values.</i></p> <p>It is open to a reviewer to arrive at such an opinion, which is obviously at variance with that of the author of the EJE SoHI. It should, however, be noted that the remaining 29 points of the Executive Review, as set out above, have been systematically addressed in the order in which they arise.</p>	<p>Noted. As addressed in the above comments, it is reiterated that the applicant’s Planning Proposal is contrary to adopted Council plans, policy, and the peer review assessment.</p>
<p>25. In summary, it is determined that, subject to design, the land can be developed for residential housing without having a significant impact on the heritage values of Morpeth</p>	<p>Noted. This point is clearly contrary to Council’s assessment and the Peer Review prepared for the proposal.</p>