

11.4 REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

FILE NO:	RZ16002
ATTACHMENTS:	1. Planning Proposal
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MAITLAND +10	Outcome 6. Built heritage and sustainable development
COUNCIL OBJECTIVE:	6.1.1 To encourage orderly, feasible and equitable development whilst safeguarding the community's interests, environmentally sensitive areas and residential amenity.

EXECUTIVE SUMMARY

At its meeting on 14 June 2016, Council refused an application for a place of public worship on land at 486 Louth Park Road, Louth Park. The grounds for the refusal were that the proposed use was inconsistent with the objectives of the R5 Large Lot Residential zone and incompatible with the character and amenity of the surrounding residential area.

Following a review of the appropriateness of this use in the R5 Large Lot Residential zone, this report seeks to remove place of public worship from the R5 Large Lot Residential zone of the Maitland Local Environmental Plan 2011 (MLEP2011). A planning proposal is required to affect these changes.

OFFICER'S RECOMMENDATION

THAT

- 1. Pursuant to s56 of the Environmental Planning and Assessment Act 1979, Council forward the attached planning proposal to the Minister for Planning requesting a gateway determination.**
- 2. Council undertakes community consultation in accordance with the gateway determination.**
- 3. If no submissions are received during the exhibition period, a request is sent to the Minister for Planning to make the amendment in accordance with s59 of the Environmental Planning and Assessment Act 1979.**
- 4. If submissions are received during the exhibition period a report is presented back to Council for consideration.**

REPORT

At its meeting on 14 June 2016, Council considered a development application for a place of public worship on land at 486 Louth Park Road, Louth Park. Council refused the application for the following reasons:

1. *The proposal did not satisfy the following Clause of the Maitland Local Environmental Plan 2011 pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979:*
 - i) *Clause 2.3 - Zone objectives and Land Use Table;*
2. *The proposal does not satisfy the following part of the Maitland Development Control Plan 2011 pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:*
 - i) *Section F10 – Part F10 – Urban Release Areas 2011 – Louth Park;*
3. *This place of public worship will adversely impact onto the character and amenity of the surrounding large lot residential area due to the excessive hours of operation that results in increased noise, lighting and visual impacts and further clearing of vegetation is necessary for buildings, car park and access road and establishment of asset protection zones on site pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.*
4. *Insufficient information has been provided to allow an assessment of the environmental hazards such as mine subsidence risks pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.*
5. *It has not been demonstrated that proposed place of worship is suitable on the site pursuant to Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979.*
6. *The proposal is not considered to be in the public interest pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979*

The decision to refuse the place of public worship at Louth Park has triggered a review of the appropriateness of this land use in the R5 Large Lot Residential zone.

The objectives of the R5 Large Lot Residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

 REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)

Council has 14 discrete R5 zones across Maitland. All of the existing R5 Large Lot residential areas in Maitland consist of low density “rural-residential” uses with very limited non-residential uses. Most areas have limited access, limited kerb and guttering and most are accessed by no through roads. Some accesses are affected by flooding.

“Places of Public Worship” are important community facilities and currently are permitted in the R1 General Residential and R5 Large Residential zones, as well as all business zones and the RU2 Rural Landscape zone. They are venues for people with religious and spiritual affiliations to congregate and practice their beliefs. However, the operations of “Places of Public Worship” typically generate impacts that may make them less suitable for certain land use zones, such as large lot residential zones and more suitable in other zones, including business zones and other residential zones. Historically also some places of public worship have also occurred in rural areas.

Given the consistent characteristics of Maitland’s R5 Large Lot residential zones it is considered that place of public worship is an inappropriate land use in all of these areas. Therefore it is appropriate to prohibit the use in the R5 Large Lot Residential zone.

TABLE 1: Existing R5 Large Lot Residential zoned land across Maitland.

Name	Access	Minimum Lot size	Predominant character	Non-residential uses
Greta	No through Road	5000m2	Large Lot Residential	NIL
Luskintyre	No through Road	5000m2	Large Lot Residential	NIL
Windella	No through Road	5000m2/10000m2	Large Lot Residential	NIL
Aberglasslyn	1 existing through road	5000m2	Large Lot Residential	NIL
Oakhampton Heights	No through road	20000m2	Large Lot Residential	NIL
Mt Harris	No through road	2000m2	Large Lot Residential	NIL
Bolwarra Heights	No through road	5000m2/10000m2	Large Lot Residential	NIL
Largs	Some direct access to Dunmore Road / No through road	2000m2	Large Lot Residential	NIL
Timberlane	No through roads	5000m2	Large Lot Residential	NIL
Green Hills	Access off Mitchell Drive and The Boulevard	5000m2	Large Lot Residential/Some commercial uses	A child care centre / and Heath Centre
Louth Park	Access off Louth Park Road / No through roads	1500m2, 2000m2, 4000m2, 5000m2	Large Lot Residential Large Lot Residential	NIL
Lochinvar	No through Road	5000m2	Large Lot Residential	NIL
Morpeth (Closebourne Estate)	Private roads	2000m2	Large Lot Residential	NIL
Woodberry	Access off Woodberry Road	5000m2	Large Lot Residential	NIL

REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)

CONCLUSION

The decision to refuse a development application on the basis that it is inconsistent with the zone objectives is an important trigger for a review of the land use in the zone. It is considered that places of public worship are not appropriate in any R5 Large Lot Residential zone in Maitland. Therefore the land use should be prohibited.

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

This matter has no specific policy implications for Council.

STATUTORY IMPLICATIONS

There are no statutory implications under the Local Government Act 1993 with this matter.

Planning, Environment and Lifestyle Reports

REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

Planning Proposal

Meeting Date: 13 December 2016

Attachment No: 1

Number of Pages: 10

REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)



PLANNING PROPOSAL

AMENDMENT TO THE MAITLAND LEP 2011

TO PROHIBIT PLACE OF PUBLIC WORSHIP IN THE R5 LARGE LOT RESIDENTIAL ZONE

Version 1
November 2016



REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)

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Version 1 – November 2016 (For Section 55 Council Report)

INTRODUCTION

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 (MLEP 2011) to prohibit "Place of Public Worship" in the R5 Large Lot Residential zone.

This planning proposal is the result of an application for a 'place of public worship' in an R5 Large Lot Residential Area in Louth Park. Council refused the application on the following grounds:

- The development proposal is contrary to the R5 zone objectives
- The development will adversely impact on the surrounding amenity and character of this large lot residential area given:
 - the excessive hours of operations being 5am to 7pm, 7 days a week,
 - the potential noise and lighting impacts,
 - the visual impacts due to the erection of a 1.8m high acoustic wall to satisfy acoustic criteria along the south eastern boundary of the site,
 - the erection of two additional buildings and
 - the removal of further vegetation from the site to allow construction of buildings, car park and access driveway and to establish necessary asset protection zones.

The objectives of the R5 Large Lot Residential zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Council has 14 discrete R5 Large Lot Residential zones across Maitland. All of the existing R5 Large Lot residential areas in Maitland consist of low density "rural-residential" uses in nature with very limited non-residential uses, as outlined in the table below. Most areas have limited access, limited kerb and guttering and most are accessed by no through roads. Some accesses are affected by flooding.

TABLE 1: Existing R5 Large Lot Residential zoned land across Maitland.

Name	Access	Minimum Lot size	Predominant character	Non-residential uses
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 REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)

Bolwarra Heights	No through road	5000m2/10000m2	Large Lot Residential	NIL
Largs	Some direct access to Dunmore Road / No through road	2000m2	Large Lot Residential	NIL
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Consistent with the Council's justification to refuse the development at Louth Park, Council does not consider that 'place of public worship' is an appropriate land use in the R5 Large Lot Residential zones across the Maitland Local Government Area. Therefore, it is seeking to prohibit 'place of public worship' in that zone. This is the purpose of the planning proposal.



PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of the proposal is to prevent the submission of an application for a 'place of public worship' in the R5 Large Lot Residential zone.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks to amend the Maitland Local Environmental Plan 2011 to list 'place of public worship' as 'prohibited' in the R5 Large Lot Residential zone land use table.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

No. This planning proposal is the result of a Council resolution to refuse a place of public worship in a R5 Large Lot Residential zone based on planning and amenity grounds. Council considers that this use is inappropriate in the R5 Large Lot Residential zone due to the inconsistency with the zone objectives including the potential adverse impacts on the amenity of these areas.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no better way to prevent the submission of an application for a place of public worship in the R5 Large Lot residential zone.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this planning proposal. However, beneficiaries of the proposal could include those residents in a R5 Large Residential zone. The proposal will also result in potential benefits for the wider community due to the intended outcome that places of public worship will more likely be located in areas more accessible to the wider community.

"Places of Public Worship" are important community facilities and currently are permitted in the R1 General Residential and R5 Large Residential zones, as well as all business zones and the RU2 Rural Landscape zone. They are venues for people with religious and spiritual affiliations to congregate and practice their beliefs. However, the operations of "Places of Public Worship"



REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)

typically generate impacts that may make them less suitable for certain land use zones, such as large lot residential zones and more suitable in other zones, including business zones and other residential zones. Historically also some places of public worship have also occurred in rural areas.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Hunter Regional Plan 2036

This planning proposal supports the following directions and actions of the Hunter Regional Plan 2036.

DIRECTION	CONSISTENCY AND IMPLICATIONS
Direction 13: Plan for greater land use compatibility	
13.3 Amend planning controls to deliver greater certainty of land use.	The proposal to prohibit places of public worship in the R5 Large Lot Residential zone provides greater certainty for people living in the R5 Large Lot Residential zone.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Maitland +10 (Community Strategic Plan)

There are no relevant objectives in the Council's community strategic plan (Maitland +10).

6. Is the planning proposal consistent with applicable state environmental planning policies?

There are no relevant SEPPs.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

The planning proposal is consistent with the Direction 3.1 Residential Zones as it seeks to prohibit a place of public worship in the R5 Large Lot Residential zone as it is considered to be inconsistent with the R5 zone objectives. It is also consistent with the Direction 3.4 Integrating Land Use and Transport as it aims to improve access to these facilities by walking, cycling and public transport. There are no other relevant s117 directions.



SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

- 8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

Not applicable.

- 9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Not applicable.

- 10. How has the planning proposal adequately addressed any social and economic effects?**

No social or economic impact assessment has been undertaken for this proposal. However, it is likely that the social and economic impact of the proposal will be positive. There is greater certainty for the residents of R5 Large Lot Residential zones that an inappropriate land use is no longer permissible. In addition it is noted that places of public worship are permitted with consent in a number of other urban zones including the R1 General Residential zone, as well as all business zones. These other zones generally provide more appropriate locations for places of public worship that are closer to existing centres and the wider populations that they serve.

SECTION D – STATE AND COMMONWEALTH INTERESTS

- 11. Is there adequate public infrastructure for the planning proposal?**

Not applicable.

- 12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?**

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal. Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal.

PART 4: DRAFT LEP MAPS

There are no maps associated with this proposal.

PART 5: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979 and the gateway determination.

 REVIEW OF LAND USES IN THE R5 LARGE LOT RESIDENTIAL ZONE IN THE MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 (Cont.)
PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	February 2017
Anticipated timeframe for the completion of required studies	N/a
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	March 2017
Commencement and completion dates for public exhibition period	April 2017
Dates for public hearing (if required)	N/a
Timeframe for consideration of submissions	May 2017
Timeframe for the consideration of a proposal post exhibition	June 2017
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	July 2017
Anticipated date RPA will make the plan (if delegated)	July 2017
Anticipated date RPA will forward to the department for notification (if delegated)	August 2017