

Prohibit places of public worship in the R5 Large Lot Residential zone

Proposal Title : **Prohibit places of public worship in the R5 Large Lot Residential zone**

Proposal Summary : **The planning proposal (PP) would prohibit places of public worship in the R5 Large Lot Residential zone in the Maitland Local Environmental Plan (LEP) 2011. Places of public worship are currently permitted with consent.**

PP Number : **PP_2017_MAITL_001_00** Dop File No : **17/01656**

Proposal Details

Date Planning Proposal Received : **19-Jan-2017** LGA covered : **Maitland**

Region : **Hunter** RPA : **Maitland City Council**

State Electorate : **MAITLAND** Section of the Act : **55 - Planning Proposal**

LEP Type : **Policy**

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : **All land zoned R5 Large Lot Residential in the Maitland LGA.**

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**
Contact Number : **0249042709**
Contact Email : **ben.holmes@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Ian Shillington**
Contact Number : **0249349825**
Contact Email : **Ian.Shillington@maitland.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**
Regional / Sub Regional Strategy : **Hunter Regional Plan 2036** Consistent with Strategy : **Yes**

Prohibit places of public worship in the R5 Large Lot Residential zone

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	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 :

External Supporting Notes : **BACKGROUND - LAND AND ENVIRONMENT COURT (LEC) PROCEEDINGS**

Council advises that this PP originates as a result of a recent development application (DA) for a place of public worship at Louth Park (Louth Park is zoned R5). Council refused the DA and this decision has since been appealed by the applicant. It is now under consideration in the LEC. The LEC proceedings do not however affect the assessment undertaken in this report. The PP has been considered on its strategic planning merit, and is a separate matter to the DA before the LEC.

Should the Gateway support the PP and the PP be finalised, this should not affect the outcome of the LEC proceedings. That matter would be determined per the LEP provisions in place when the DA was originally determined by Council.

BACKGROUND - ADDITIONAL INFORMATION

Further information regarding the strategic merit of the PP was requested and received on 19 January 2017.

Adequacy Assessment

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

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

Comment : **The Objective of the PP is to prevent the submission of a development application for a place of public worship in the R5 zone.**

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

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

Comment : **The Explanation of Provisions states that Council would alter the land use table of the LEP such that places of public worship would be listed as prohibited development in the R5 zone.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

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

Council has not considered directions 5.1 Implementation of Regional Strategies and 5.10 Implementation of Regional Plans.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

This is a policy type proposal. No changes to LEP maps are required. Council has included a table in the PP which identifies the communities that are zoned R5 which would be affected. This is considered sufficient for the purposes of community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council intends to consult with the community but has not nominated a length of time. As the DA for a place of public worship at Louth Park generated a high level of community interest, this PP may generate a similar level of interest. Given this, a minimum of 28 days is recommended.

Additional Director General's requirements

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

If Yes, reasons :

COMPLETION TIMEFRAME

Council's project timeline suggests the PP would be finalised by August 2017 (seven months). This is generous given that no State agency consultation or further studies are proposed. A six month completion timeframe is considered to be adequate.

PLAN-MAKING DELEGATION

Council advises that it has not requested plan-making delegation for this PP because it has recently refused a place of public worship on land at Louth Park that is zoned R5 Large Lot Residential, and that that DA is currently subject to an appeal by the applicant.

Overall adequacy of the proposal

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

If No, comment :

Prohibit places of public worship in the R5 Large Lot Residential zone

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Maitland LEP 2011 commenced in December 2011.

Assessment Criteria

Need for planning proposal :

The PP is not the result of a specific strategy or study. Council advises that it results from a DA which was recently refused by Council.

Council considers that places of public worship is inappropriate in the R5 zone because it is inconsistent with the zone objectives, including the potential adverse impacts on the amenity of those areas. In addition to this, it notes that places of public worship are better located nearer to urban populations and in areas with better access than R5 zoned land.

While it could be argued that similar issues may apply to other uses permitted in the R5 zone (eg community facilities or recreation facilities (outdoor)) or to places of public worship being permitted in the RU2 Rural Landscape zone, Council is of the view that this is not the case.

The Department requires councils to permit places of public worship in their R1 General Residential, R3 Medium Density Residential, R4 High Density Residential, RU5 Rural Village, IN1 General Industrial and IN2 Light Industrial zones where those zones have been included in a council's LEP. The Maitland LEP 2011 complies with this requirement (the R1 and IN1 zones permit the use).

In addition, Council permits places of public worship in its RU2 Rural Landscape zone, R5 Large Lot Residential zone and all of its LEP's business zones. While the PP would remove the potential for places of public worship to locate on R5 zoned land, it is evident that places of public worship are still adequately catered for in the Maitland LGA under the LEP. Council's decision is therefore not inconsistent with any Department policy.

Council has considered the strategic planning merit of whether this use is appropriate in that zone. The Department's preference is for strategic merit assessments to occur separate to specific DAs, however it is noted that with some uses it is only through detailed development assessment that areas of conflict are identified.

Prohibit places of public worship in the R5 Large Lot Residential zone

Consistency with strategic planning framework :

HUNTER REGIONAL PLAN (HRP)

Council identifies that Direction 13 "Plan for greater land use compatibility" is relevant to this PP as prohibiting places of public worship would remove a potential source of land use conflict. The PP states that this is consistent with Action 13.3 "Amend planning controls to deliver greater certainty of land use".

While this Direction appears largely focused on land use conflict with agricultural and mining activities, the principle of avoiding land use conflict remains relevant. Council asserts that places of public worship in the R5 zone may result in land use conflict due to potential adverse amenity impacts for rural lifestyle residents. Given this, the PP is considered consistent with the HRP.

LOWER HUNTER REGIONAL STRATEGY (LHRS)

As Council submitted the PP to the Department after the HRP commenced but before s117 direction 5.1 Implementation of Regional Strategies was amended (to omit the LHRS), the LHRS needs to be considered. Council has not assessed consistency with the LHRS.

The Department considers the LHRS to not contain any specific guidance relevant to this PP. Given this, the PP is considered consistent with the LHRS.

MAITLAND COMMUNITY STRATEGIC PLAN (CSP)

Council states that the CSP does not contain any relevant objectives. The Department concurs with this assessment.

MAITLAND URBAN SETTLEMENT STRATEGY (MUSS)

The PP does not detail whether it is consistent with Council's settlement strategy. The Department considers the MUSS to not provide any specific advice relevant to this PP.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

There are no SEPPs considered to be relevant to this PP.

SECTION 117 DIRECTIONS (s117)

Council has identified the PP as being consistent with directions 3.1 Residential Zones and 3.4 Integrating Land Use and Transport. The Department does not raise issue with this assessment.

Directions 5.1 Implementation of Regional Strategies and 5.10 Implementation of Regional Plans are also relevant. The directions require all PPs to be consistent with the relevant Strategy (direction 5.1 clause 11)/ Plan (direction 5.10 clause 9). Council should update this section of the PP accordingly to include its consistency assessment.

Environmental social economic impacts :

While the PP is unlikely to result in environmental, social or economic impacts, Council asserts that it would (if finalised) reduce the potential for land use conflict. It also notes that places of public worship may locate closer to centres as a result, making them more accessible to the benefit of the wider community.

The DA related to this matter will be determined through the LEC, regardless of this PP.

Prohibit places of public worship in the R5 Large Lot Residential zone

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 months** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

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 :

Documents

Document File Name	DocumentType Name	Is Public
Council Request Letter.pdf	Proposal Covering Letter	Yes
Council Report.pdf	Study	Yes
Council Minutes.pdf	Study	Yes
Planning Proposal.pdf	Proposal	Yes
Additional Information.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
3.4 Integrating Land Use and Transport

Additional Information : **This planning proposal should proceed subject to the following conditions:**

- 1. Prior to exhibition Council is to amend the planning proposal to refer to:**
 - (a) section 117 Direction 5.10 Implementation of Regional Plans and include Council's consistency assessment against the requirements of this direction; and**
 - (b) section 117 Direction 5.1 Implementation of Regional Strategies and include Council's consistency assessment against the Lower Hunter Regional Strategy.**

Prohibit places of public worship in the R5 Large Lot Residential zone

2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
- (a) the planning proposal must be made publicly available for a minimum of 28 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 LEPs (Department of Planning & Environment 2016).
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A 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).
4. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Supporting Reasons : **Per this report.**

Signature: _____



Printed Name: _____

Koflaherty

Date: _____

30-1-17

