

Louth Park Urban Investigation Area (Stage 2)

Proposal Title : **Louth Park Urban Investigation Area (Stage 2)**

Proposal Summary : **The planning proposal seeks to rezone 156.4 ha of land at Louth Park from RU2 Rural Landscape to R5 Large Lot Residential, and amend the minimum lot size provisions to a mix of 1500m², 2000m², 3000 m², and 4000m² sizes in order to manage site constraints. The proposal will accommodate up to 430 new dwellings.**

PP Number : **PP_2012_MAITL_005_00**

Dop File No : **12/11299**

Proposal Details

Date Planning : **29-Jun-2012**

LGA covered : **Maitland**

Proposal Received :

Region : **Hunter**

RPA : **Maitland City Council**

State Electorate : **MAITLAND**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **Louth Park Road**

Suburb : **Louth Park**

City : **Maitland**

Postcode : **2320**

Land Parcel : **Lots 61, 62, 63, 64 & 65 DP 825042, Lot 1 DP 221762, Lots 411 & 412 DP 854995, Lot 5 DP 702764, Lot 521 DP 593618, Lot 523 DP 701969, Lot 19 DP 1070710, Lot 520 DP 563545, Lots 200 & 2001 DP 1129126, and Lot 522 601199**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **Other**

Release Area Name : **N/A**

Regional / Sub : **Lower Hunter Regional**

Consistent with Strategy : **Yes**

Regional Strategy : **Strategy**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	156.40	Type of Release (eg Residential / Employment land) :	
No. of Lots :	430	No. of Dwellings (where relevant) :	430
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

The Gateway considered a Planning Proposal on 8 November 2010 (PP_2010_MAITL_017_00) to rezone the Louth Park Investigation Area through an amendment to the Maitland LEP 1993 to facilitate the development of up to 300 dwellings. Planning Proposal PP_2010_MAITL_017_00 proposed to rezone 176.5 ha of land at Louth Park.

On 12 December 2010, the Gateway determined that the Planning Proposal PP_2010_MAITL_017_00 should not proceed for the following reasons:

1. In light of the advanced preparation and exhibition of Maitland's comprehensive LEP, it is considered unlikely that this planning proposal will be finalised in advance of the draft Maitland LEP 2011.
2. Insufficient supporting strategic information has been provided by Council to justify the variation of the proposal from the Maitland Urban Settlement Strategy 2008 and the Lower Hunter Regional Strategy, including an investigation into the potential for higher residential yield from the site and the adequate justification of zone boundaries and minimum lot size designations.

Council separated the Louth Park Investigation Area into 2 stages and proceeded with a proposal for only 11.4 ha (Stage 1) of the area as it was considered to be less constrained than the remaining 165.1 ha (Stage 2). Stage 1 land is separated from Stage 2 land by a ridgeline and Louth Park Road. Maitland City Council lodged a Planning Proposal (PP_2011_MAITL_005_00) in early 2012 to rezone Stage 1 of the Louth Park Investigation Area through an amendment to Maitland LEP 2011. On the 2 February 2012, the Gateway determined that Planning Proposal PP_2011_MAITL_005_00 should proceed. This proposal was submitted to the Department on 29 June 2012 for finalisation.

This current Planning Proposal contains land identified as Stage 2 of the release, and includes all the remaining Louth Park Urban Investigation Area.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **A statement of objectives explains that the proposal intends to rezone lands within the Louth Park Investigation Area to enable large lot residential development consistent with the density and scale of adjoining urban settlements, ensuring residents have access to adequate infrastructure, and conserving the rural landscape of the locality. The statement of objectives is supported.**

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

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

Comment : **The explanation of provisions states that the proposal will be achieved through an amendment to the Maitland LEP 2011 by replacing relevant Land Zoning and Minimum Lot Size Maps to reflect the proposed zone and minimum lot size provisions. The explanation of provisions is supported.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

4.1 Acid Sulfate Soils

4.2 Mine Subsidence and Unstable Land

4.4 Planning for Bushfire Protection

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

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

MINIMUM LOT SIZE

Previously, the Gateway determined not to proceed with PP_2010_MAITL_017_00 as inter alia it was considered that Council had provided inadequate investigation into the potential for higher residential yield from the site and the adequate justification of zone boundaries and minimum lot size (MLS) designations.

Council has provided additional information on MLS configuration, and proposes a mixture of 1500m², 2000m², 3000m², and 4000m² minimum sized lots which will yield 430 lots. The proposed MLS layout takes into consideration site constraints including mine subsidence, environmentally sensitive land, and visual impact. Land owners were also consulted and asked to provide a submission of their preferred MLS layout. It is understood that community members have different view of desirable lot size provisions.

Council has demonstrated further investigation into a higher residential yield for the site through consideration of the above constraints. However as a structure plan has not been prepared, Council has not demonstrated in the planning proposal how a road layout and subdivision structure will work with the proposed boundary of the MLS. Without consideration of a structure plan, it is a concern that the proposed MLS layout may restrict the site from achieving the most appropriate residential yield. There is a potential that a further amendment to the MLS maps may be required in the future in order to integrate the LEP with a Structure Plan.

As discussed, in addition to the the officer's recommendations, Council also resolved to "prepare and exhibit a Development Control Plan (DCP) and Section 94 Contributions Plan for the Louth Park Urban Release Area, to be exhibited concurrently with the planning proposal." It is understood that preparation of the DCP will include structure planning for the investigation area. Preparation of a Structure Plan will enable Council

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to ensure that minimum lot size provisions will enable development of the site allowing for site constraints while maximising lot yield.

Council's endorsed local planning strategy, the Maitland Urban Settlement Strategy discusses the need to consider range of issues in more detail through the development of a Structure Plan for the Louth Park Investigation Area. The MUSS states that "The Structure Plan is to investigate and provide planning principles and direction for land use patterns considering lot density/yield, water and sewer infrastructure planning, environmental outcomes (flora/fauna, mine subsidence, drainage, salinity, visual) and traffic/transport planning."

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 :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes a 28 day exhibition period as it considers that the proposal is not of low impact. It is considered if Council exhibits the planning proposal with a DCP, then a 28 day exhibition period is suitable.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : **The Maitland LEP 2011 was gazetted on 16 December 2011.**

Assessment Criteria

Need for planning proposal : **The subject site is identified in the endorsed Maitland Urban Settlement Strategy (MUSS) 2008 Edition as a 'Category 1 - Residential Investigation area'. An LEP amendment is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.**

Although no formal net community benefit test has been undertaken, Council's assessment has indicated that there is likely to be a net community benefit.

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Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

The proposal is considered consistent with the Lower Hunter Regional Strategy (LHRS) as it is in accordance with the objective and aims of the Strategy, particularly in regard to ensuring an adequate supply of residential land.

The Louth Park Investigation Area is not identified in the LHRS as a proposed urban area. However, the LHRS states that land use proposals, outside of the areas identified as future urban, may be considered where it can be shown that the proposal meets the Sustainability Criteria.

Louth Park is also identified as a residential investigation area in the endorsed Maitland Urban Settlement Strategy (MUSS) 2008. The MUSS is consistent with the LHRS.

MAITLAND URBAN SETTLEMENT STRATEGY

The site is identified in the Maitland Urban Settlement Strategy (MUSS) as a 'Category 1 - Residential Investigation Area'. The MUSS - 2008 Edition was endorsed by the Department, with conditions, on 1 September 2009.

The MUSS monitors zoned residential land in the Maitland LGA and ensures a supply of zoned land is maintained consistent with the LHRS. The Maitland LGA is projected to cater for an additional 26,500 dwelling by 2031. This residential growth is creating demand for additional dwellings.

The Department previously raised concerns over the proposed development of the Louth Park Investigation Area for rural residential purposes. The MUSS identifies areas for preferred 'large lot residential development'. Louth Park is identified as a residential investigation area, and not an area preferred for large lot residential development. PP_2010_MAITL_017_00, considered by the Gateway in 2010, was rejected as "insufficient supporting strategic information has been provided by Council to justify the variation of the proposal from the Maitland Urban Settlement Strategy 2008 and the Lower Hunter Regional Strategy, including an investigation into the potential for higher residential yield from the site and the adequate justification of zone boundaries and minimum lot size designations."

It is considered that Council has demonstrated through further investigation that the part of the Louth Park Investigation Area subject to constraints is not suitable for a higher residential yield. The proposed minimum lot size boundaries reflect the identified constraints.

However, the planning proposal needs further justification for the proposed MLS provisions applying to land not subject to constraints. It is considered that preparation of a DCP for the site will assist Council in justifying the proposed MLS configuration. If required, preparation of the DCP will also enable Council to make changes to the MLS layout before exhibition if higher residential yield is found to be appropriate over part of the site.

SECTION 117 LOCAL PLANNING DIRECTIONS

The planning proposal is considered inconsistent with the following s.117 Directions:

1.2 Rural Zones

The planning proposal is inconsistent with this direction as it rezones land from a rural zone to a residential zone. The inconsistency is justified as the planning proposal is in accordance with the endorsed MUSS 2008, which gives consideration to the objectives of this direction and identifies the subject land.

1.5 Rural Lands

As Council seeks to vary an existing minimum lot size in an LEP, it must do so in accordance with the Rural Subdivision Principles. The planning proposal is inconsistent with the Rural Subdivision Principles listed in State Environmental Planning Policy with

regard to the minimisation of rural land fragmentation, and therefore inconsistent with this Direction. The inconsistency is justified as the planning proposal is in accordance with the MUSS which gives consideration to the objective of this direction.

4.1 Acid Sulfate Soils

The planning proposal is inconsistent with this Direction as the planning proposal proposes intensification of land uses on land identified as containing Class 5 acid sulfate soils (ASS) on Maitland LEP 2011 Acid Sulfate Soils Planning Maps. Council has not considered an acid sulfate soils study in assessing the appropriateness of the change of land use given the possible presence of acid sulfate soils. It is considered that the inconsistency is of minor significance as Maitland LEP 2011 includes appropriate ASS controls, Class 5 are the lowest risk soils, and rural residential development is unlikely to disturb Class 5 soils.

4.2 Mine Subsidence and Unstable Land

Although the subject site is not within proclaimed Mine Subsidence District, this direction is applicable as part of the site has been identified as containing unstable land due to shallow mine workings. Council states that the Planning Proposal is consistent with this Direction as it provides for appropriate scale, density and type of development. Council previously consulted with the Mine Subsidence Board (MSB) who advised that no surface development occur over mine workings within a depth of 0m to 20m and geotechnical studies confirming suitable dwellings locations for development over mine workings 20 to 50m. Council indicates areas affected by shallow workings have a 4000m² minimum lot size to allow strategic placement of dwellings. However as the MSB has not been consulted on the current proposed minimum lot size configuration, it is recommended that Council consult the Mine Subsidence Board in accordance with the requirements outlined in clause (4) of the direction.

4.4 Planning for Bushfire Protection

Land within the subject site is mapped as bushfire prone land. It is recommended that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation take into account any comments made by the Commissioner.

STATE ENVIRONMENTAL PLANNING POLICIES

The planning proposal is considered inconsistent with the following SEPPs:

SEPP (Rural Lands) 2008

The planning proposal is inconsistent with the Rural Subdivision Principles listed in the SEPP with regard to the minimisation of rural land fragmentation, and therefore inconsistent with this SEPP. Similar to Section 117 Direction 1.5, the inconsistency is justified as the planning proposal is in accordance with the MUSS which gives consideration to the objective of this direction.

Environmental social
economic impacts :

ENVIRONMENT

The area subject to the planning proposal contains two endangered ecological communities (EEC) and eight threatened fauna species, which are likely to be adversely affected by the proposal. The planning proposal states that former Department Environment Climate Change and Water (DECCW) supported the rezoning in principle, recommending that Council be satisfied before proceeding that the proposal will not impacts on areas of vegetation. It is understood that the proposed MLS layout provides for larger lots in areas identified as containing ecological constraints in order to allow for better environmental outcomes. Further consultations with the Office of Environment and Heritage (OEH) is recommended.

Louth Park Investigation Area contains areas of visual sensitivity, with objectives to protect prominent ridgelines and maintain development density consistent with surrounding development. Council has indicates that investigations undertaken have identified the need for large lots along the ridgeline, with a MLS of 4000m² proposed.

Council has undertaken assessment of other environmental effects, including Stormwater, Air Quality, Contamination and Acoustic, on the proposal. These studies indicate no

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constraints or considerations required to be taken into account for the planning proposal. However, further contamination and acoustic assessment may need to be undertaken during DA assessment. Further consultations with the Environment Protection Authority (EPA) is not required.

As discussed under Section 117 Directions, the site contains mine subsidence and bushfire. It is considered that these have been adequately investigated by Council, and referral to relevant agencies as required under the directions will ensure appropriate consideration.

SOCIAL AND ECONOMIC

An Archaeological Assessment undertaken identified three (3) potential archaeological deposits. The Assessment makes a number of recommendations in relation to development of the site including construction activities. Council advises that matters can be adequately considered in a DCP and during individual development assessment.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
Timeframe to make LEP :	18 12 Month	Delegation :	DG
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 :

Council has prepared a number of studies in support of the proposal. No further studies are required, however a DCP will assist in compiling the information.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The planning proposal is identified in the draft Lower Hunter Special Infrastructure Contributions Plan as an Urban Release Area (URA). The site is mapped in the Maitland LEP 2011 as an URA, which is consistent with the Department's approach to SIC sites. Council does not propose any changes to the URA.**

Hunter Water Corporation have advised that the lands can be serviced for water and sewer through an extension of existing infrastructure.

Documents

Document File Name	DocumentType Name	Is Public

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**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.4 Planning for Bushfire Protection**

Additional Information : **The Planning Proposal should proceed subject to the following conditions:**

1. It is noted that Council resolved to exhibit a Development Control Plan (DCP) and Section 94 Development Contributions Plan with the Planning Proposal. It is understood that a Structure Plan will form part of the DCP. The DCP should demonstrate how the proposed zone and minimum lot size boundaries can be managed. The Planning Proposal should reflect, and be updated, if the DCP identifies opportunities to increase residential yield through changes to the land use zone or minimum lot size maps.
2. The Planning Proposal and Development Control Plan should be provided to the Regional Office before commencement of exhibition for endorsement by the Department.
3. 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 is classified as not of low impact as described in A Guide to Preparing LEPs (Department of Planning 2009) and must be made publicly available for 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).
4. In relation to Section 117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and amend the planning proposal (if necessary) to take into consideration any comments prior to undertaking exhibition of the planning proposal.
4. In relation to Section 117 Direction 4.2 Mine Subsidence and Unstable Land , Council is to consult with the Mine Subsidence Board and amend the planning proposal (if necessary) to take into consideration any comments prior to undertaking exhibition of the planning proposal.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Office of Environment and Heritage
 - Department of Primary Industries (Agriculture)
 - NSW Rural Fire Services
 - Mine Subsidence Board

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

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6. 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).

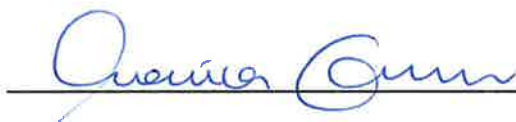
7. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

8. That the DG agree to inconsistencies with Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.4 Acid Sulfate Soils as they are minor and justified by an endorsed strategy.

Supporting Reasons :

It is considered that the Council has provided sufficient justification and consistency with the strategic planning framework for the proposal to proceed. However, development of a Structure Plan will enable Council to clearly demonstrate how the proposed zone boundaries and minimum lot size layout achieve a suitable residential yield consistent with the LHRS and MUSS.

Signature:



Printed Name:

Monica Gibson

Date:

13 July 2012

