

Planning and Assessment

Gateway determination report

LGA	Maitland
PPA	Maitland City Council
NAME	178 Denton Park Drive, Aberglasslyn zone realignment
NUMBER	PP_2019_MAITL_001_00
LEP TO BE AMENDED	Maitland Local Environmental Plan 2011
ADDRESS	Denton Park Drive Aberglasslyn
DESCRIPTION	Lot 41 DP 1251085.
RECEIVED	29 August 2019 (revised version)
FILE NO.	EF18/8691
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Maitland Local Environmental Plan 2011 to correct an irregular zone boundary and enable residential development. The proposal seeks to realign an R5 Large Lot Residential and R1 General Residential boundary, so that the R5 and R1 is consistent with the subdivision pattern and local character in the area. The proposal also seeks a change in minimum lot size to 1500m² and 450m² for the R5 and R1 zones respectively. The 1500m² is a reduction in the current R5-zoned lot size from 5000m², while the 450m² is consistent with the existing lot size for the R1 zone.

1.2 Site description

The subject site (see Figure 1) lies to the north of Denton Park Drive in Aberglasslyn. The site has no dwellings, but contains a few wire and post fences, old animal shelters, and a power line running generally along the northern boundary of the lot. The site contains several strands of vegetation, seemingly planted along historic paddock or fence lines. The site has development consent (DA/2018/1972) for a 49 residential lot subdivision including connecting access to Birch Grove in the adjoining R1 zoned portions of the site.

The subdivision plan (Figure 2) shows the proposed layout of R5 lots and connection of Tea Tree Avenue in the north part of the site. These components were omitted from the DA due to the zoning anomaly so will be subject to a separate application in future, pending the zone realignment.



Figure 1: Subject site – 178 Denton Park Drive, Aberglasslyn.

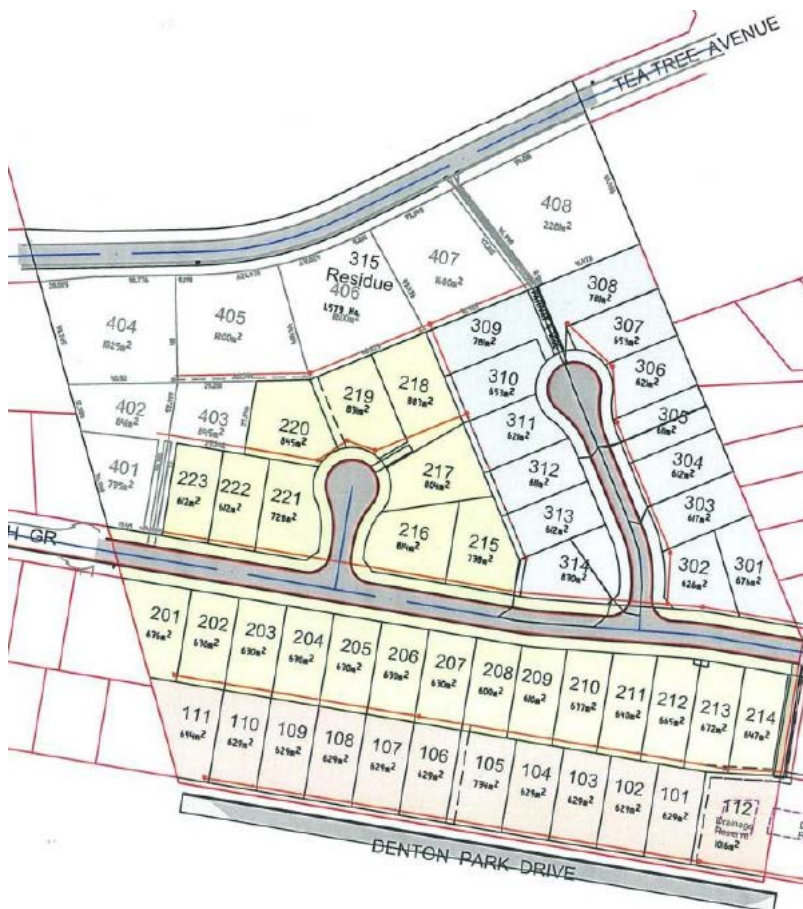


Figure 2: Subject site – subdivision plan (DA/2018/1972).

1.3 Existing planning controls

The subject site is currently a split zone of R5 Large Lot Residential and R1 General Residential, with minimum lot size of 5000m² and 450m² corresponding to the R5 and R1 zones respectively. The site is also classified as Class 5 Acid Sulfate Soils under Maitland Local Environmental Plan 2011. There are no other development controls that apply to the land.



Figure 3: Existing and proposed zoning of the subject site.

1.4 Surrounding area

The surrounding area comprises large lot residential development to the north, and low density residential to the south as shown in Figure 4. There are shops, sports ovals, playgrounds, and child care centres in Aberglasslyn, with wider services and facilities including schools and health care available within 2.5km distance to the south at Rutherford.

The subject site is located 2km from the New England Highway (A43), and approximately 3.5km from Telarah train station. Rutherford business centre and industrial precinct is also located approximately 3km to the south west of the subject site. The Hunter River is located to the north, with some grazing agricultural uses present in the RU1 Primary Production zone adjacent to the river. The surrounding features and land uses are shown in Figure 5. The R5 large lot zone to the north acts as a transition between the agricultural and residential uses and maintains a consistent lot pattern in the area sympathetic to the local character.



Figure 4: Subject site and surrounding land use zones.

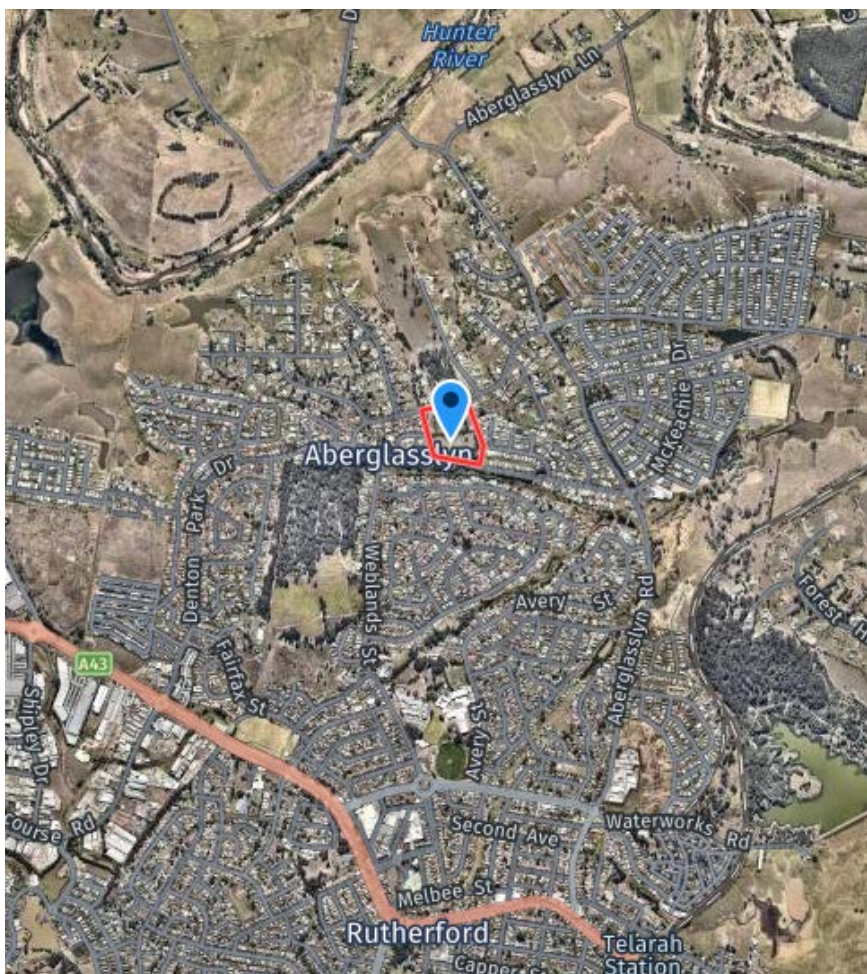


Figure 5: Subject site and surrounding areas.

1.5 Summary of recommendation

The planning proposal is supported subject to conditions. The proposal would fix an irregular zone boundary to enable residential development in an established location close to services. The intended urban development is sympathetic to the local character and a logical extension of the existing subdivision pattern in the area.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the proposal is to facilitate residential development on the subject land in accordance with the subdivision plan shown in Figure 2. The objectives of the planning proposal are clear and do not require amendment.

The subject land appears to have been excised from the parent lot referenced in the planning proposal. The planning proposal should be updated to reflect this.

2.2 Explanation of provisions

The planning proposal seeks to amend the Land Use and Minimum Lot Size Maps of Maitland Local Environmental Plan 2011 to:

- Realign the R5 Large Lot and R1 General Residential zone boundary; and
- Change the minimum lot size of the R5 and R1 zoned land to 1500m² and 450m² respectively; for the subject land.

The explanation of provisions is clear and does not require amendment.

2.3 Mapping

Mapping is included in the planning proposal that clearly shows the subject land and the proposed zone boundary realignment. The amendment will include changes to the land use zone and minimum lot size maps of Maitland Local Environmental Plan 2011 and the changes are adequately explained in the proposal.

3. NEED FOR THE PLANNING PROPOSAL

Maitland City Council recently approved a Development Application (DA/2018/1972) for subdivision of part of the land into 49 residential lots. The northern part of the site affected by the irregular R1-R5 boundary could not be included, as Maitland Local Environmental Plan 2011 does not contain provisions relating to the subdivision of split-zoned land. This part remains temporarily as a residue lot.

Maitland City Council advises that the original zone boundary was dictated by the topography of the land, with it generally following the site contours. The adjoining land to the east and the west has since been developed for residential use, comprising a mix of large and standard residential lots. The current zone boundary is inconsistent with the surrounding residential pattern and is considered an impediment to the efficient development of the subject land for its intended use.

The LEP amendment would correct the irregular zone boundary and facilitate the development of the northern part of the site. The proposed subdivision plan is consistent with the surrounding subdivision pattern and road network, while being sympathetic to the local character of the area by maintaining a large lot transition along Tea Tree Avenue between the rural and general residential uses.

4. STRATEGIC ASSESSMENT

4.1 State

There are no state-level plans or strategies relevant to this planning proposal.

4.2 Regional / District

Hunter Regional Plan 2036

- Direction 21 – Create a compact settlement

The proposal is consistent as it will facilitate residential infill development in an established urban area that has existing services and infrastructure. Surrounding suburbs including the nearby centres of Rutherford and Maitland provide shops, health services and education facilities, while the site is nearby Telarah train station and the New England Highway. The subject site is currently surrounded by residential uses with access to utilities and existing infrastructure, so utilising the subject land for residential development assists with creating a compact settlement.

- Direction 22 – Promote housing diversity

The proposal is consistent as it will enable the development of a mix of housing types while respecting the existing local character. The subject site will provide for several large residential blocks and approximately fifty standard residential lots that will contribute to diverse housing stock and increase supply in the area.

Greater Newcastle Metropolitan Plan 2036.

- Strategy 16 – Prioritize delivery of infill housing

The proposal is consistent as it will facilitate residential infill development that is close to jobs and services. The site is identified in Figure 8 of the Greater Newcastle Metropolitan Plan as an existing urban area with infill opportunities. The proposal will facilitate an appropriate scale and mix of residential lots to contribute to the GNMP target for 60% infill housing.

- Strategy 18 – Deliver well-planned rural residential housing areas

The proposal is consistent as it will deliver several rural residential lots as a logical extension of the surrounding subdivision pattern and local character. The five R5 zoned large lots will maintain a consistent large lot frontage along Tea Tree Avenue and will act as a transition between the rural uses to the north and the standard residential lots in the south. The minimum lot size of 1,500m² for the R5 large lots is considered appropriate in scale to fit the topography and local character of the area, while balancing the need for higher density residential development.

4.3 Local

The proposal is consistent with Council's Community Strategic Plan *Maitland +10* as it will enable development that maintains local character and provides a mix of housing types, which are both noted as aspirations of the community under the 'our built space' theme. The proposal is also consistent with the *Maitland Urban Settlement Strategy 2012* as it will facilitate better development outcomes on the site, as intended by the historic residential zoning, in an existing urban area.

4.4 Section 9.1 Ministerial Directions

- 3.1 Residential Zones applies as the proposal involves a change to residential zone boundaries. The proposal is inconsistent as it involves a net loss of

approximately 6,737m² of R1 General Residential zoned land being rezoned to R5 Large Lot Residential, which will reduce the permitted density of that land. This area represents a potential 15 standard residential lots, which would be difficult to configure in the area with respect of local character. The rezoning will realign the irregular zone boundary to enable a more logical subdivision layout with better development and local character outcomes.

The rezoning is consistent with the objectives of the direction as it will facilitate development of five large lots and 49 standard residential lots, providing a variety of housing choices in an area that has access to existing infrastructure and services. The inconsistency with the direction is considered of minor significance.

- 3.4 Integrating Land Use and Transport applies as the proposal involves a change to residential zone boundaries. The proposal is consistent with the direction as the subject site is located close to bus stops and Telarah train station to enable use of public transport, while also being close to shops and services to reduce the distance and number of trips taken by car.
- 4.1 Acid Sulfate Soils applies as the subject site is mapped as having class 5 Acid Sulfate Soils. The proposal is consistent with the direction as the land is already zoned for residential use, and Clause 7.1 of Maitland Local Environmental Plan 2011 requires an acid sulfate soils assessment and/or management plan before granting consent for works that could disturb, expose or drain acid sulfate soils.
- 5.10 Implementation of Regional Plans applies as Maitland Local Government Area is within the boundaries of the Hunter Region, with the land subject to the Hunter Regional Plan 2036 (HRP). The proposal is consistent with the direction as it helps give effect to Goal 4 of the HRP for greater housing choices and jobs.

4.5 State environmental planning policies (SEPPs)

The proposal is consistent with all relevant SEPPs, including those assessed below:

SEPP 44 – Koala Habitat Protection

A Flora and Fauna Assessment was undertaken on the subject land in October 2018. The subject land is not considered to be potential koala habitat, with less than 15% of native trees on site classified as koala feed trees and no evidence of koalas found on site. The site is otherwise mostly cleared of vegetation and fragmented in terms of habitat connectivity. The proposal is therefore not likely to have any significant impacts on core koala habitat.

SEPP 55 – Remediation of Land

There is no known history of land uses on the subject site that would contribute to gross contamination apart from agriculture. A Preliminary Site Investigation for contamination identified potential sources of contamination on site as being fibro sheeting from an animal kennel and some imported fill materials, which can contain hazardous substances such as heavy metals, hydrocarbons, and/or asbestos. Soil and fibro material samples from the site were tested for contamination and results indicated an absence of gross contamination, with concentration levels of contaminants being within acceptable levels suitable for residential use.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal is not anticipated to have any adverse social impacts. The site is already zoned a mixture of general residential and large lot residential, which will offer a range of lot sizes and increase housing supply in the area. The local community objected to the original planning proposal which proposed general residential lots for the entirety of the site. Council has revised the proposal to address community concerns to maintain local character in the area by incorporating the R5 Large Lot zone to the north. The location is otherwise suitable for residential development with shops, health services, schools, and recreation and community facilities located nearby that will benefit residents.

5.2 Environmental

A flora and fauna assessment identified the subject site to contain two remnant strands of Spotted Gum Ironbark Forest vegetation, with approximately 0.5ha being of disturbed Endangered Ecological Community formation. The assessment identified seven hollow-bearing native trees in the south east part of the site and four species of threatened bats were recorded during survey. Two of these threatened bat species are known to roost and breed in tree hollows, so could possibly be using tree hollows on site. The development consent under DA/2018/1972 has conditioned the installation of seven 'bat boxes' to compensate for the removal of the hollow-bearing trees before construction commences.

5.3 Economic

Economic impacts from the proposal are anticipated to be positive. The proposed rezoning will increase housing supply and choice which could improve housing affordability in the area. The location is close to Rutherford which is a significant employment hub in the Maitland LGA, while local businesses will benefit from additional residents in the locality.

6. CONSULTATION

6.1 Community

Council has assessed the proposal as being low impact, with a 14-day exhibition period suggested. However, prior to the proposal being amended it received community opposition. While the community concerns have been addressed in the revised proposal, a 28-day exhibition period is recommended.

6.2 Agencies

Council has recognised possible agency consultation with the Office of Environment and Heritage, Roads and Maritime Services, Hunter Water Corporation, and Mindaribba Local Aboriginal Land Council. Given the proposal is for a boundary adjustment rather than a change in land use, agency consultation is not required.

7. TIMEFRAME

Council has a 6-month timeframe suggested to complete this proposal. Considering there is very little room for delay in Council's timeframe and no recognition of the Christmas holiday period, a 9-month timeframe is recommended.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority, and this is supported given the proposal has been revised to address local community concerns.

9. CONCLUSION

The proposal is a pragmatic response to correct an irregular zone boundary and enable the orderly development of residential uses on site. The proposal balances the need for greater density and housing choice while accommodating local character in the area. It is recommended the proposal proceed with conditions.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that the inconsistency with section 9.1 Direction 3.1 Residential Zones is of minor significance.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
3. Given the nature of the planning proposal, Council should be the local plan-making authority.
4. Update the planning proposal with the correct property description, being Lot 41 DP 1251085.



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