

Eales Family Cemetery Reclassification

Proposal Title : **Eales Family Cemetery Reclassification**

Proposal Summary : **To reclassify Eales Family Cemetery from 'Community' to 'Operational'.**

The subject site comprises a small rural family graveyard 52m² in area, known as the Eales Family Cemetery. The site is the family cemetery of a prominent early settler and agricultural entrepreneur in the Maitland district dating back to the original land grant in 1823. Council are seeking to have the site reclassified to enable its sale. The land is zoned RU1 Primary Production.

PP Number : **PP_2012_MAITL_007_00**

Dop File No :

12/18698

Planning Team Recommendation

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

S.117 directions : **2.3 Heritage Conservation**

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

1. 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 2012) 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning 2012).

2. Council is to notify members of Eales family, that have previously made a submission to Maitland LEP 1996 (Amendment 102), of the exhibition of this planning proposal.

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

• Office of Environment and Heritage - Heritage Branch

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The 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.

4. Council is to notify the National Trust of Australia of the exhibition and the intent to sell the site.

5. 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).

6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Supporting Reasons : **Council is satisfied that legal ownership issues are resolved. The community classification of the land is unsuitable, and it is considered that there is no reason why the**

Eales Family Cemetery Reclassification

reclassification should not proceed at this time. If the ownership was found to be invalid, the subsequent reclassification by the Minister would be void and have no affect. It is considered appropriate to proceed based on Council advice and noting that finalisation of the reclassification does not impinge upon other avenues open to the Eales family.

Panel Recommendation

Recommendation Date : 06-Dec-2012

Gateway Recommendation : Passed with Conditions

Panel

Recommendation :

The Planning Proposal should proceed subject to the following conditions:

1. As part of the consultation process, Council is to write to the National Trust of Australia and the Eales family notifying them of the exhibition of the planning proposal. The National Trust of Australia should also be advised of Council's intention to sell the site.

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 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 and Infrastructure 2012).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

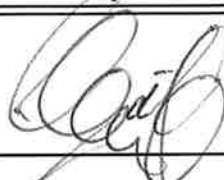
- Office of Environment and Heritage – Heritage Branch

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.

4. 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).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Signature:



Printed Name:

Neil McGuffin

Date:

11.12.12