

PLANNING PROPOSAL

Amendment to the Maitland LEP 2011

SHARKEY'S LANE EXTENSION SITE

(Lots 1- 9 DP37749 Glenarvon Road & Sharkey's Lane, Lorn)

Version 1.0 – 12th November 2013



CONTENTS

INTRODUCTION	3
PART 1: OBJECTIVES OR INTENDED OUTCOMES	3
PART 2: EXPLANATION OF PROVISIONS	3
PART 3: JUSTIFICATION FOR PROPOSED REZONING OR LEP AMENDMENT	3
Section A – NEED for the PLANNING PROPOSAL	3
Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK	4
Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT	8
Section D – STATE and COMMONWEALTH INTERESTS	10
PART 4: COMMUNITY CONSULTATION	11
Appendix 1 Location Map	
Appendix 2 Proposed MLEP 2011 Amendment Maps	
Appendix 3 Plan of Filling & Earthworks	

Figures and Tables

Table One: Relevant State Environmental Planning Policies

Table Two: Relevant s.117 Ministerial Directions

Version

Version 1.0 – 12.11.2013 Section 55 Report to Council

INTRODUCTION

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a planning proposal has been prepared to support the proposed rezoning of land known as the Sharkey's Lane extension site.

The purpose of this planning proposal is to enable the rezoning of the flood free portion of the subject land for urban purposes, while ensuring the ongoing protection of conservation items within the Lorn Heritage Conservation Area, and minimising visual impact at the Northern gateway of Lorn. The site is zoned RU1 Primary Production under the Maitland LEP 2011. It should be noted that the current zoning is largely a product of the flood history of the site, however, the 2010 flood study mapping identified revised flood levels for land throughout the Maitland LGA. A portion of the site is now mapped as above the 1% AEP flood level, meaning that Council can consider rezoning the flood free portion of the site for urban residential purposes. A location map is attached as **Appendix 1** which identifies the subject site.

PART 1: OBJECTIVES or INTENDED OUTCOMES

The objectives of this planning proposal are:

- To enable future residential land use on residual rural allotments to the East of Sharkey's Lane, while simultaneously acknowledging the proximity to the Hunter River Floodplain; and
- To accommodate the logical extension to existing urban development and infrastructure, while also considering (i) the visual amenity at the Northern gateway to Lorn, and (ii) the Lorn Heritage Conservation Area.

PART 2: EXPLANATION of PROVISIONS

The objectives of the proposed amendment will be achieved through an alteration to the Zoning Map and Minimum Lot Size Map. The proposed maps resulting from the rezoning of the site are included as **Appendix 2**.

The Maitland Local Environmental Plan 2011 is proposed to be amended by:

- (1) amending sheet 004C of the **Land Zoning Map** to show the relevant portion of the site as zone R1 General Residential, and inserting in the relevant clause of the written instrument:

Maitland Local Environmental Plan 2011 (Amendment X) – Sharkey's Lane Extension Site
- (2) amending sheet 004C of the **Lot Size Map** to illustrate the minimum lot size for the relevant portion of the site to be zoned R1 General Residential, being 450m².

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?

The planning proposal applies to land known as the Sharkey's Lane Extension Site, which comprises Lots 1-9 DP37749, Glenarvon Road & Sharkey's Lane, Lorn.

Following consideration of a submission received during the exhibition of the recently adopted Maitland Urban Settlement Strategy (MUSS) 2012, the subject land was identified in the MUSS 2012 as an "extension site" under the provisions of "urban extension development" eligibility criteria. That is, (i) the land is a site adjoining an urban area, (ii) is less than 15 hectares and (iii) will not yield greater than 50 residential lots. The subject land can therefore be considered for rezoning to urban purposes.

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

The rezoning can only be achieved by way of submitting a planning proposal, in order to obtain a Gateway determination.

3. Is there a net community benefit?

The rezoning proposal does not include a determination of Net Community Benefit, since no NCB test was undertaken by the proponent. There is not likely to be any significant net community benefit resulting from the planning proposal, since the proposal is limited in size and scale. The main community benefit will be rezoning the land in order to potentially accommodate future additional residential housing within the site.

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?

Lower Hunter Regional Strategy (NSW Dept of Planning) – October 2006

This planning proposal for the Sharkey's Lane Extension Site is consistent with the aims and objectives of the LHRs 2006, particularly those aims that relate to housing, transport, environment and natural resources. The portion of the site to be rezoned to R1 General Residential zone has been filled as part of a recently approved Development Application (DA13-38) and is now above the 1% AEP flood level, which is consistent

with the Sustainability Criteria included under Appendix 1 of the LHRS 2006 (p. 45). Furthermore, the agricultural capacity of the land, despite it being zoned RU1 Primary Production zone under the MLEP 2011, is very limited given the small size and dimensions of the existing allotments. As such, each of the existing allotments cannot currently meet the objectives of the RU1 Primary Production zone.

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

The subject planning proposal is consistent with the Maitland 2021 Community Strategic Plan and the supporting Delivery Program 2011-2015, particularly in relation to objective 7.2.1 – *To ensure land and housing choice is consistent with forecast demographic demand*. In regards to land use strategies, the following documents provide the appropriate strategic policy framework to support this planning proposal.

Maitland Urban Settlement Strategy 2001-2021 (Maitland City Council) – 2010 Edition

Following consideration of a submission received during the exhibition of the recently adopted Maitland Urban Settlement Strategy (MUSS) 2012, the subject land was identified in the MUSS 2012 as an “extension site” under the provisions of “urban extension development” eligibility criteria. That is, (i) the land is a site adjoining an urban area, (ii) is less than 15 hectares and (iii) will not yield greater than 50 residential lots. The subject land can therefore be considered for rezoning to urban purposes.

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

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below.

SEPP	Relevance	Consistency and Implications
SEPP No. 55 - Remediation of Land	Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	The site has previously been subject to agricultural activities over time and may accommodate chemical residues from activities such as cattle drenching, and from fertilisers and herbicides. A Preliminary Geotechnical and Site Contamination report was submitted with the rezoning proposal, which addresses this SEPP and demonstrates that the land is suitable for residential purposes.
SEPP (Infrastructure) 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal impacts upon the aims and provisions of this SEPP.
SEPP (Rural Lands) 2008	This SEPP outlines aims and objectives for rural land use planning, with a focus on limiting fragmentation of rural land and protecting rural land for broad scale agricultural uses.	This SEPP is relevant since the site is currently zoned RU1 Primary Production under the Maitland LEP 2011. Each of the allotments within the site is currently incapable of meeting the objectives of the RU1 Primary

		Production zone, given the size and dimensions of each allotment. Nothing in this plan is inconsistent with the objectives of this SEPP.
--	--	--

Table One: Relevant State Environmental Planning Policies

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

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
EMPLOYMENT and RESOURCES		
1.2 Rural Zones	To protect the agricultural production value of rural land.	The subject land, despite its zoning as RU1 Primary Production land, cannot meet the objectives of the RU1 zone. The land comprises several small allotments that are not conducive to any financially viable agricultural enterprise. The proposal is therefore consistent with this direction.
1.5 Rural Lands	To protect the agricultural production value of rural land, and to facilitate the orderly and economic development of rural lands for rural and related purposes.	The subject land, despite its zoning as RU1 Primary Production land, cannot meet the objectives of the RU1 zone. The land comprises several small allotments that are not conducive to any financially viable agricultural enterprise. The proposal is therefore consistent with this direction.
ENVIRONMENT and HERITAGE		
2.3 Heritage Protection	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The subject land is located within the Lorn Heritage Conservation Area. There are no items of heritage significance located within or directly adjoining the subject site. The proposed rezoning does not directly impact upon heritage items within this heritage conservation area. The proposal satisfies the provisions of this direction, given that the land will continue to be identified as part of the Lorn Heritage Conservation Area under the Maitland LEP 2011. Any proposal for development of the site in the future would need to be supported by an appropriate assessment of heritage impacts.

Ministerial Direction	Aim of the Direction	Consistency and Implications
HOUSING, INFRASTRUCTURE and URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing, minimise the impact of residential development on the environment and resource lands and make efficient use of infrastructure and services.	The proposed rezoning will result in a localised change of land use to enable additional future urban extension development at the site. The land is currently idle rural land that is of small size and dimensions, which adjoins urban development to the West, beyond Sharkey's Lane. The proposal is therefore consistent with this direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The proposal is consistent with this direction, given that the land is proposed to be developed in the future for residential purposes. The rezoning will form an amendment to the MLEP 2011. Currently, 'Home Occupation' is permitted without consent in the R1 General Residential zone.
3.4 Integrating Land Use and Transport	The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, jobs and services by methods other than private vehicles.	The land is well located to support the surrounding residential development and to provide high levels of accessibility to existing road and public transport networks. The proposal is consistent with this direction.
HAZARD and RISK		
4.1 Acid Sulphate Soils	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	The Maitland LEP 2011 identifies Class 5 Acid Sulphate Soils over the site. No investigation of ASS was undertaken in the environmental studies submitted with the planning proposal. The Preliminary Geotechnical and Site Contamination report recommends filling of the site to raise the surface levels above the 1% flood level that applies to the site. Filling would increase levels within the site and potentially alter outcomes for ASS testing compared to current surface levels. Given that the matter is of minor significance, the proposal is considered to be consistent with this direction.
4.3 Flood Prone Land	Directions aims to reduce the risk of flood and to ensure that the development of flood prone land is consistent with NSW Flood Prone land policy.	It should be noted that Council has identified a revised flood level for this site, following the adoption of Council's flood study in 2010. The revised flood level had the effect of reducing the 1% flood level within the immediate locality to RL7.5AHD, resulting in a portion of land within

Ministerial Direction	Aim of the Direction	Consistency and Implications
		the subject site being identified as flood free. While the majority of the site is affected by inundation during the 1:100 year flood event, a recently approved DA (DA13-38) involving earthworks has resulted in the entire developable area of the site being located above RL7.5AHD. This means that the entire developable portion of the site (i.e. above RL7.5AHD) may be capable of supporting residential development. The proposal is considered to be consistent with this direction.
REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies	The planning proposal achieves the overall intent of the LHRS 2006 and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions. The proposal is therefore consistent with this direction.
LOCAL PLAN MAKING		
The provisions of the s.117 directions relating to local plan making do not apply to the subject site.		
METROPOLITAN PLANNING		
The provisions of the s.117 directions relating to metropolitan planning do not apply to the subject site.		

Table Two: Relevant s.117 Ministerial 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?

The referral of the application to the Director-General of the DECCW in accordance with section 34A of the Environmental Planning and Assessment Act, 1979 was not required in this instance. The site is devoid of native vegetation and does not retain any Endangered Ecological Communities (EECs).

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

Traffic

A traffic assessment was not completed to support the rezoning proposal.

Council's engineers have provided comments regarding traffic issues associated with the site, including

matters relating to safety, traffic generation and access. While some localised issues have been identified in association with the rezoning proposal, these issues do not appear to be insurmountable in regards to the rezoning of the site. That is, should the rezoning progress, appropriate traffic management measures could be implemented to support urban development. Some of the issues raised by Council's engineers include:

- minimum road widths not complying with Council's engineering standards, particularly in regards to Sharkey's Lane;
- on-street vehicle parking not complying with Council's engineering standards;
- flooding and access, particularly along Glenarvon Road;
- lack of street lighting;
- safety concerns regarding increased traffic generation at the intersection of Sharkey's Lane and Glenarvon Road; and
- potential for increased heavy vehicle movements along Sharkey's Lane during construction of any potential future residential development at the site, should the rezoning proceed.

While the site is limited in size and extent, the current width of Sharkey's Lane does not make it conducive to expansion of development for urban purposes in the locality. Current access arrangements to properties in Sharkey's Lane have developed over time as a product of historic delineation points between the urban and rural environment of Lorn. Should the rezoning progress, any future access for the site would be more favourable along Glenarvon Road. Specific access arrangements could be further discussed as part of any future DA for subdivision of the land.

Flooding & Stormwater

It should be noted that Council has identified a revised flood level for this site, following the adoption of Council's flood study in 2010. The revised flood level had the effect of reducing the 1% AEP flood level within the immediate locality to RL7.5AHD, resulting in a portion of land within the subject site being identified as flood free.

While the majority of the site is affected by inundation during the 1:100 year flood event, a recently approved DA (DA13-38) involving earthworks has resulted in the developable area of the site being located above RL7.5AHD. This means that the developable portion of the site (i.e. above RL7.5AHD) can be considered for supporting residential development. The plan of filling and earthworks associated with recently approved DA13-38 at the site is included as **Appendix 3**.

Stormwater disposal is not considered to be an impediment to the rezoning of the land, given the natural topography of the site and the opportunities for drainage.

Geotechnical & Contamination

A geotechnical report has been completed to support the rezoning. The report states that "contamination does not pose a constraint to the proposed residential development of Lots 1 to 6 and Lot 9 for either the proposed dual occupancy or conventional residential dwellings if rezoned." Furthermore, the report states that Lot 9 is classified as Class M O Moderately Reactive as defined in AS2870. The report states that "On the basis that the filling is undertaken as controlled filling as defined in AS2870 and the filling material comprises site won or imported granular material the site classification would remain unchanged." Given these comments in the submitted report, no further assessment of geotechnical or contamination issues are considered necessary at this stage.

Water & Wastewater Servicing

A preliminary infrastructure servicing plan was not submitted to support the rezoning proposal. It is anticipated that the Gateway determination would require that Council consult with Hunter Water Corporation about water and wastewater servicing for the site.

Visual Impact Assessment

The subject land forms a gateway site at the entry to Lorn when travelling South along Paterson Road towards Maitland. Council has undertaken an assessment of visual impact, which included consideration of land already developed for similar scale residential development immediately West of the subject site, beyond Sharkey's Lane. Council is satisfied that the scale and extent of development proposed for the site will not impact detrimentally on views to the site. Furthermore, the intended outcomes for the site are considered to be consistent with the context and scale of existing residential development in the locality.

European Heritage

The subject land is wholly located within the Lorn Heritage Conservation Area, as identified under the Maitland LEP 2011. No items of heritage significance exist within, or directly adjoining, the subject land.

Given the recent approved residential developments immediately West of the subject land, beyond Sharkey's Lane, it is evident that there are opportunities for appropriate design outcomes for any future residential development within the site, which would obviously need to incorporate sympathetic architectural design elements. It is not considered necessary at this point in time to require a European heritage study to support the rezoning proposal, as the site is on the periphery of the Lorn Heritage Conservation Area and is not within close proximity to any identified heritage items. Furthermore, Council has recently approved a DA (DA13-38) for Dual Occupancies on Lots 1-6 and Lot 9. The assessment of that proposal considered whether the design elements of each Dual Occupancy would be appropriate for the locality, given the existing built form within Lorn.

Aboriginal Archaeology

No assessment of Aboriginal heritage has been completed for the site.

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

The main social and economic benefits resulting from this planning proposal include the potential for additional residential development in Lorn and the utilisation of the land for a higher order use.

Section D – STATE and COMMONWEALTH INTERESTS

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

This planning proposal is not considered to place significant additional demands on the public infrastructure and general infrastructure needs of the locality, given the limited size and scale of future anticipated development within the site.

Government agencies will be consulted following a Gateway determination being issued, where all consultation requirements will be disclosed.

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

It is anticipated that consultation would be required with the following government agencies:

Office of Environment and Heritage

Part of the subject site is inundated during a 1% AEP flood event. As such, comments should be sought from OEH regarding the suitability of the site for rezoning to urban purposes to accommodate future residential development. The portion of the site to be rezoned to R1 General Residential zone is limited to the area of the site that is not affected by the 1% AEP flood event, which now includes land subject to recent earthworks and filling as part of DA 13-38. Given the presence of OEH administered levee banks and State owned flood infrastructure in Lorn, OEH should be consulted in regards to this proposal.

Hunter Water Corporation (HWC)

HWC should be consulted regarding serviceability of the site. While the site is limited in size, and does adjoin existing urban development to the West beyond Sharkey's Lane, the availability of services to be extended to the site to service potential future residential development should be confirmed.

Energy Australia

While there appear to be no major constraints that would preclude Energy Australia from providing electricity to the site, consultation should occur with Energy Australia to confirm that this is indeed the case.

PART 4: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority. The proposal involves only a minor LEP amendment of limited scale and size. Council deems that the planning proposal is of low impact. The planning proposal should therefore be exhibited for a minimum of 14 days.

In accordance with Council's adopted *Maitland 2021 Strategic Community Plan*, consultation on the proposed rezoning should have the aim of informing and receiving feedback from interested stakeholders. To engage the local community the following is proposed to be undertaken:

- Notice in the Hunter Post newspaper;
- Exhibition material and relevant consultation documents to be made available at Central Maitland Library and Council's Administration Building;
- Consultation documents to be made available on Council's website; and
- Letters, advising of the proposed rezoning and how to submit comments will be sent to adjoining landowners, any agencies identified on the Gateway determination, and other stakeholders that Council deem relevant to this rezoning proposal.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the proposed rezoning before proceeding to finalisation of the amendment.

The consultation process, as outline above does not prevent any additional consultation measures that may be determined appropriate as part of the 'Gateway' determination process.

Project Timeline

The following timeframes are considered approximate, but are included in accordance with the Department's publication "*A Guide to Preparing Planning Proposals*".

- Anticipated Gateway determination date: 10th January 2013
- Timeframe for completion of required technical information: N/A
- Timeframe for government agency consultation: 3 weeks, beginning 15th January 2014
- Commencement & completion dates for public exhibition: 22nd January 2014 – 5th February 2014
- Date of public hearing: N/A
- Timeframe for consideration of submissions: 2 weeks
- Timeframe for consideration of a proposal post-exhibition: 2 weeks
- Date of submission to DOPI to finalise LEP: 7th March 2014
- Anticipated date RPA will make plan: 4th April 2014
- Anticipated date RPA will forward to DOPI for notification: 4th April 2014

Appendix ONE

Location Map

Appendix TWO

Proposed Zoning Map & Lot Size Map

Appendix THREE

Plan of Filling & Earthworks