

# PLANNING PROPOSAL

*Amendment to the Maitland LEP 1993*

## **RZ 07004- MT HARRIS**

*(Lot 1 and 4, DP 813858- Mt Harris Drive, Maitland Vale)*

**Version 02**  
**18<sup>th</sup> August 2010**



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## **PART 1: INTRODUCTION and SITE IDENTIFICATION**

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The planning proposal explains the intended effect of, and justification for the proposed amendment to *Maitland Local Environmental Plan 1993* with regard to lands within Mt Harris Investigation Area. It has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

The purpose of the planning proposal is to rezone lands referred to as Lot 1 and part of Lot 4 DP 813858 fronting Mt Harris Drive, Maitland Vale for urban purposes. This portion of land is identified as the investigation area for preferred rural residential development in the Maitland Urban Settlement Strategy (MUSS) 2008.

Council resolved on 12 May 2009 to prepare a Draft Local Environment Plan (DLEP) to rezone lands within Mt Harris Investigation Area for urban purposes. The resolution for the proposed rezoning for Mt Harris Investigation Area was notified to the Director-General pursuant to the former Section 54 (4) of the *Environmental Planning and Assessment Act 1979*, prior to 1 July 2009. No Section 65 Certificate has been issued for the DLEP prior to 1 July 2009.

Consequently, Council is seeking to progress the amendment under the new planning proposal format in accordance with the *Environmental Planning and Assessment Amendment Act 2008* and the *Environmental Planning and Assessment Amendment (Plan Making) Regulation 2009*. The progression of the planning proposal will continue independently to the progression of the Maitland LEP 2011. This is consistent with advice from the Department of Planning and Council's adopted land release program as considered in the MUSS 2008.

The site is identified as Mt Harris Investigation Area which refers to Lot 1 and part of Lot 4 DP 813858 Mt Harris Drive, Maitland Vale. The site is located east of the Hunter River with the south western part of the site adjoining the river. The site also adjoins the North Coast Railway corridor to the east. This is depicted in **APPENDIX 1- Locality Plan**, appended to this report.

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## **PART 2: OBJECTIVES**

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The objectives of the planning proposal for the rezoning of lands at Mt Harris Investigation Area are to:

1. Enable low density residential development on site;
2. Conserve the rural landscape of the site and its surrounding locality;
3. Protect the riparian vegetation corridor adjoining the Hunter River at the site boundary; and
4. Mitigate noise and vibration impacts of the North Coast Railway corridor.
5. Ensure any development would respond sensitively to the density and scale of existing adjoining settlements

The planning proposal signals Council's intent for future zoning decisions in relation to Council's preparation of the Maitland LEP 2011. This amendment will support the strategic approach of Council to accommodating significant population growth within the Maitland Local Government Area (LGA).

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## PART 3: EXPLANATION of PROVISIONS

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The objective of this planning proposal is intended to be achieved through amending the Maitland Local Environmental Plan (MLEP) 1993. The amendment would involve a change to the land zoning for the proposed lands for rezoning. This involves a change to cl. 5(1) of the MLEP 1993 as an additional amendment map would need to be included in this clause.

This is described in Table 1 below and shown in the proposed zoning map in **Appendix 2- Proposed Zoning Map**.

| Land Description                                                                          | Current Zoning                 | Proposed Zoning                                                 |
|-------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------|
| Lot 1 DP 813858 (Total Area: 3.4 ha)<br><br>Part of Lot 4 DP 813858 (Total Area: 19.4 ha) | Zone 1(b) Secondary Rural Land | Zone 1(d) Rural Residential with a Minimum Lot Size of 2000 sqm |

It is intended that the objectives of this planning proposal be further supported by the preparation of an amendment to the Maitland Citywide Development Control Plan and the addition of site specific LEP provisions in order to ensure appropriate future development of the subject lands.

An amendment to the Maitland Citywide Development Control Plan is necessary to ensure the appropriate urban development of the site is achieved and the site specific constraints of the Mt Harris Investigation Area are mitigated appropriately.

As the Mt Harris Investigation Area is not an Urban Release Area, it is not captured under the provisions of Part 12 of the Maitland Local Environment Plan 1993. Subsequently, consistent with other green field urban release areas in Maitland and due to the site specific constraints of the site, the preparation of an amendment to the Maitland Citywide Development Control Plan is appropriate.

It is intended that the amendment to Maitland Citywide Development Control Plan would achieve the following objectives:

- Preservation of the visual amenity and rural landscape of the Mt Harris Investigation Area.
- Ensure any future urban development would respond sensitively to the density and scale of existing adjoining settlements
- Mitigate the noise and vibration impacts from the North Coast Railway Corridor on any future developments
- Protect the environmentally sensitive nature of parts of the site, particularly the riparian corridor adjoining the Hunter River
- Ensure the interconnectivity with services and infrastructure

The provisions of the 1(d) Rural Residential Zone implemented under the current MLEP 1993 would be the equivalent of the R5 Large Lot Residential Zone under the MLEP 2011 as this zone would provide for residential housing in a rural setting while preserving and minimising impacts on environmentally sensitive locations and the rural scenic quality of the locality. Furthermore, the preparation of an amendment to Maitland Citywide Development Control Plan and the addition of site specific LEP provisions would ensure

the objectives of the planning proposal are achieved appropriately.

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## **PART 4: JUSTIFICATION for PROPOSED REZONING**

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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 proposal;
- Section B: Policy Context;
- Section C: Potential Environmental, Social and Economic impact; and
- Section D: Other Government Interests.

### **Section A – NEED for the PLANNING PROPOSAL**

#### **1. Is the planning proposal a result of any strategic study or report?**

The Planning Proposal for the rezoning of Mt Harris Investigation Area for urban purposes is a direct result of the Maitland Urban Settlement Strategy (MUSS) 2008 which identifies the site as an Investigation Area for Preferred Rural Residential Development. In response to the implementation of the MUSS 2008, a specific request was made by the owner of the land to rezone the site from the existing 1(b) Secondary Rural Land zone to enable the subdivision and development of the land for rural residential purposes.

The MUSS 2008 was endorsed by the Department of Planning on 1 September 2009.

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

It is considered that an amendment to the Maitland LEP 1993 through the gateway process and preparation of this planning proposal is the most effective and timely method to achieve the objectives of the Maitland Urban Settlement Strategy 2008 and the desired future outcomes for the Mt Harris Investigation Area for Preferred Rural Residential Development.

The preparation of Council's MLEP 2011 within the standard template format is progressing along a 2011 completion timetable, as agreed with the Department of Planning. The Department has also endorsed Maitland's land release program which outlined the logical progression and sequencing of land release within the Maitland LGA. This program identified the Mt Harris Investigation Area as one of eight investigations areas to be rezoned independently of the Maitland LEP 2011.

#### **3. Is there a Net Community Benefit?**

No net community benefit test has been provided by the proponent. However, Council envisages that this planning proposal will result in a net community benefit.

Specifically, the Mt Harris Investigation Area is identified within Council's endorsed Maitland Urban Settlement Strategy 2008. Therefore the proposed amendment is consistent with the outcomes of both the regional and local planning strategies.

Enabling residential development within the site will contribute to the local economy, given that a high proportion of residents within the Mt Harris Investigation Area will be able to readily commute to the Maitland CBD. Similarly, this will assist in providing a local supply of labour for local businesses.

The proposal will support additional residential development within the Maitland Vale area, providing rural residential living within a commutable distance from services.

The public interest reasons for preparing this draft plan include:

- The development of the Mt Harris Investigation Area will support the growing residential population within the central sector of the Maitland LGA, with potentially 100 new residents;
- The land has largely exhausted its historical agricultural use and the proposal to develop the land for urban purposes will result in an improved outcome and a higher order use of the land;
- Services and public transport infrastructure currently exist in Bolwarra Heights which can be extended to the North West to accommodate the increase in population;
- Existing environmentally sensitive areas will be further protected due to the implementation of the 1(d) Rural Residential Zone on lands within the Mt Harris Investigation Area and the retention of the 1(b) Secondary Rural Lands on the balance of the site. This enables the retention of vegetation on site as there is no need to remove any vegetation from the site for the development of dwellings as there is ample space provided on the large lots, due the minimum lot size of 2,000sqm. Resultantly the existing vegetation corridors on site are maintained with linkages to the riparian vegetation of the Hunter River and corridors to the North West and East.

The implications of not proceeding with the planning proposal include:

- The potential of the proposed investigation area of Mt Harris, as outlined in the MUSS 2008, to not be achieved if the proposal is not supported.
- The desired future outcomes of Council's long term strategic plans (MUSS 2008) for this area will not be achieved.
- The potential for a higher order land use within the investigation area of Mt Harris would be lost, as the land is not large enough to support sustainable agricultural practices.
- The potential for improvements to the existing public infrastructure would be limited;
- Opportunities to improve and enhance the linkages between established residential areas and rural areas of Bolwarra Heights/ Maitland Vale will be denied if the proposal is not supported.

## **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 (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

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

The Lower Hunter Regional Strategy identifies individual 'release areas' generally with an area greater than 50 hectares. However sites less than 50 hectares, such as Mt Harris Investigation Area, are capable of being developed if they are consistent with the principles of the strategy and if they are identified within an endorsed local strategy.

Mt Harris Investigation Area and the objectives of this planning proposal are consistent with the principles of the Lower Hunter Regional Strategy. In addition, the proposed area for rezoning is not large enough to support sustainable agricultural practises and is not known to contain any viable mineral or extractive resources. The Mt Harris Investigation Area is identified in an endorsed local strategy, being the MUSS 2008. Therefore there are capabilities for the site to be rezoned for urban purposes.

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

Council is currently preparing a draft community strategic plan in line with the new Integrated Planning and Reporting legislation and guidelines. 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) – 2008 Edition**

The Mt Harris Investigation Area is identified in the Maitland Urban Settlement Strategy (MUSS) 2008 as a site for preferred rural residential development. The MUSS 2008 is endorsed by the Department of Planning on the 1st September 2009.

This planning proposal for Mt Harris Investigation Area is consistent with the planning objectives and policy framework of the MUSS 2008 as it demonstrates consideration of the environmental, social and economic issues and principles of the MUSS 2008, detailed in Section C of this proposal.

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

There are a number of existing SEPPs that are relevant to the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below. A list of all applicable SEPPs is appended to this report as **APPENDIX 4: Applicable State Environmental Planning Policies**.

| SEPP                              | Relevance                                                                                                                                                                                                                                                | Consistency and Implications                                                                                                           |
|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>SEPP (Infrastructure) 2007</b> | 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. Applicable to this planning proposal is Division 15, Subdivision | The environmental assessment undertaken by the proponent has considered the requirements outlined in the Department of Planning guide- |

| SEPP                                          | Relevance                                                                                                                                                                                                                                                                                                                                                                                                                  | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                               | 2- Development in Rail Corridors.                                                                                                                                                                                                                                                                                                                                                                                          | Development Near Rail Corridors and Busy Roads Interim Guideline. Through the application of the 1(d) Rural Residential Zone, the preparation of an amendment to the Maitland Citywide Development Control Plan and appropriate noise attenuation implemented at a development stage the planning proposal is consistent with the aims and provisions of this SEPP.                                                                                                                                                                                                                                                                                                                                                                  |
| <b>SEPP (Rural Lands) 2008</b>                | Provides state-wide planning controls to facilitate the orderly and economic use and development of rural lands for rural and related purposes. In addition it identifies the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State. | The planning proposal is inconsistent with the Rural Lands SEPP (2008) as it is rezoning lands zoned for rural purposes to urban/residential purposes and therefore is not facilitating the orderly and economic development of rural lands for rural related purposes. However the Mt Harris site is identified within the endorsed MUSS 2008 as an Investigation Area for rural residential development. In addition the site is not practical for sustainable agricultural practices consistent with prime agricultural classes 1 and 2 due to the flood liable nature of the site and the size of the portion classed as prime agriculture. Therefore the inconsistency with the aims of the Rural Lands SEPP 2008 is justified. |
| <b>SEPP No. 55 Remediation of Land</b>        | 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.                                                                                                                                  | Given the historical use of the land for agricultural purposes, the land has previously been subject to agricultural activities over time and may accommodate chemical residues from such activities. In addition, the site has been previously subject to cutting and filling in certain areas. Resultantly, a detailed contamination report has been submitted as part of the rezoning proposal, which addresses this SEPP and identified that the site contains traces of contaminants. However, the assessment demonstrates that the land is suitable for urban development if appropriate remediation of the site occurs.                                                                                                       |
| <b>SEPP (Mining, Petroleum Production and</b> | Provides for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State so as to facilitate the orderly and economic use and                                                                                                                                                                                  | Quarrying has occurred west of the subject lands in the past however the quarry is unlikely to be suitable for                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| SEPP                               | Relevance                                                                                                                                                                                                                                                                                                                       | Consistency and Implications                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Extractive Industries) 2007</b> | development of land containing mineral, petroleum and extractive material resources, and to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources. | <p>future production of gravel. Any future operation of the quarry would need to include a risk assessment for future stability of cutting, having regard to the appreciable increase in slope angle and surface elevation in the direction of future extraction.</p> <p>Therefore nothing in this planning proposal affects the aims and provisions of this SEPP.</p> |

**Table One:** Relevant State Environmental Planning Policies

**7. Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?**

The proposed development is not inconsistent with any s. 117 Ministerial Directions. An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

| Ministerial Directions                                     | Aim of the Direction                                                                                            | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Employment and Resources</b>                         |                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.1 Business and Industrial Zones                          | NA                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.2 Rural Zones                                            | The objective of this direction is to protect the agricultural production value of rural land.                  | <p>It is proposed to rezone the Mt Harris Investigations Area from rural to urban lands. The majority of the site is currently zoned for rural purposes. This is justified by the endorsed MUSS 2008 identifies the site as Mt Harris Investigation Area for Preferred Rural Residential Development and is therefore consistent with this direction. In addition the site, at present, does not support prime agricultural uses. The area that is identified as suitable for prime agricultural land classes 1 and 2 is subject to flooding.</p> <p>Therefore the rezoning is consistent with the aims of this direction.</p> |
| 1.3 Mining, Petroleum Production and Extractive Industries | NA                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.4 Oyster Aquaculture                                     | NA                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 1.5 Rural Lands                                            | To protect the agricultural production value of rural land, and facilitate the orderly and economic development | The study area comprises rural land that is identified in The Maitland Rural Strategy 2005 and by Department of Industry and Investment as supporting prime agricultural classes 1 and 2. This land forms part of the site which is                                                                                                                                                                                                                                                                                                                                                                                            |

| Ministerial Directions                                  | Aim of the Direction                                                                                                                                                                    | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                         | of rural lands for rural and related purposes.                                                                                                                                          | <p>subject to flooding and the area is not large enough to support sustainable agricultural practices. Hence the land has been identified by Council as suitable for urban development as it forms part of the Mt Harris Investigation Area identified in the MUSS 2008 which is endorsed by the Department of Planning. Rezoning of the subject lands will not result in the loss of sustainable and viable rural lands and hence the inconsistency with the aims of this direction is justified.</p> <p>The planning proposal is inconsistent with the Rural Lands SEPP (2008) as it is rezoning lands zoned for rural purposes to urban/residential purposes and therefore is not facilitating the orderly and economic development of rural lands for rural related purposes. However the Mt Harris site is identified within the endorsed MUSS 2008 as an Investigation Area for rural residential development. In addition the site is not practical for sustainable agricultural practices consistent with prime agricultural classes 1 and 2 due to the flood liable nature of the site and the size of the portion classed as prime agriculture. Therefore the inconsistency with the aims of the Rural Lands SEPP 2008 is justified.</p> |
| <b>2. Environment and Heritage</b>                      |                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.1 Environmental Protection Zones                      | NA                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.2 Coastal Protection                                  | NA                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.3 Heritage Conservation                               | NA                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.4 Recreation Vehicle Areas                            | NA                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>3. Housing, Infrastructure and Urban Development</b> |                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 3.1 Residential Zones                                   | Encourage a variety and choice of housing, minimize the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services | <p>The planning proposal is applicable to this direction as it is proposing an amendment to the MLEP 1993 for rezoning of lands for urban purposes.</p> <p>The proposed rezoning will result in a change of land use to enable future rural residential development of the site. In the Draft MLEP 2011 the site, in the future, would be identified as the equivalent zone R5 Large Lot Residential.</p> <p>The land is identified as an Investigation Area</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| Ministerial Directions                         | Aim of the Direction                                                                                                                                                                                                         | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                |                                                                                                                                                                                                                              | for Preferred Rural Residential Development in the endorsed MUSS 2008.<br><br>Therefore the proposal is consistent with the objectives of this direction.                                                                                                                                                                                                                                                                                                                                                        |
| 3.2 Caravan Parks and Manufactured Home Estate | NA                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3.3 Home Occupations                           | NA                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 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, employment and services by methods other than private vehicles. | The planning proposal does not achieve the objectives of this direction. However the proposed area for rezoning is identified within the endorsed local strategy, the MUSS 2008, for Preferred Rural Residential Development.                                                                                                                                                                                                                                                                                    |
| 3.5 Development Near Licensed Aerodromes       | NA                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4. Hazard and Risk                             |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4.1 Acid Sulfate Soils                         | To avoid significant adverse environmental impacts from the use of land that has a probability of containing ASS.                                                                                                            | The subject site forms part of the Hunter Alluvial Flood Plain. Current Acid Sulphate Soil risk maps and ASS Mapping under the Draft MLEP 2011 indicate the potential of ASS along the bank of the Hunter River and within the low lying gully system on the south west corner of the site. This portion of the site is to be retained as rural lands as it is not considered in the planning proposal for rezoning.<br><br>Therefore the planning proposal is consistent with the objectives of this direction. |
| 4.2 Mine Subsidence and Unstable Land          | The objectives relate to the prevention of damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.                                                            | The site does not lie within a proclaimed Mine Subsidence District. NSW Paterson Topographical Map series R751 indicates there is a presence of an 'old shaft' located in the central area of the site. Further investigations and geotechnical assessment of the presence of the 'old shaft' identified that it is not considered a hazard associated with past mining as Department of Industry and Investment and Mine Subsidence Board have no record of mining being undertaken in this area.               |

| Ministerial Directions               | Aim of the Direction                                                                                                                                                                                                    | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                      |                                                                                                                                                                                                                         | <p>Past quarrying practices are visible along the western boundary of the site. This has been investigated and a geotechnical assessment of the site has indicated that the past practices pose no risk of unstable land occurring on the subject lands to be rezoned.</p> <p>Resultantly the planning proposal is consistent with aims of this direction/</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4.3 Flood Prone Land                 | The direction aims to reduce the risk of flood and to ensure that the development of the flood prone land is consistent with the NSW Flood Prone land policy.                                                           | The portion identified in this planning proposal for rezoning is not affected by the inundation of flood during a 1:100 year flood event. The area of the site affected by 1:100 year flood inundation is bounded by the Hunter River and the North Coast Railway Corridor. This portion of the investigation will be incapable of supporting any further residential development due to the environmental constraints. As the planning proposal site is located above the 1:100 year flood level, flooding is considered of minor significance in this instance and therefore the planning proposal is consistent with the aims of this direction.                                                                                                                                                                                                                                                                                                                        |
| 4.4 Planning for Bushfire Protection | To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas. | <p>This direction applies as part of the subject site is identified as bushfire prone lands. Environmental studies for the site will be required to complete a bushfire risk assessment, outline the environmental hazards from bushfire threat on any future urban development. It is considered the planning proposal is consistent with the objectives of this direction.</p> <p>The NSW Rural Fire Service notes that parts of the subject area are identified as bush fire prone on the Maitland Bush Fire Prone Land Map. Any future development on land identified as bush fire prone will be required to comply with either section 79 BA or section 91 of the Environmental Planning and Assessment Act 1979 and may require the issue of a bush fire safety authority as per section 100B of the Rural Fires Act 1997.</p> <p>Despite the development conditions NSW Rural Fire Service (RFS) does not have any objections towards the rezoning of the land.</p> |
| <b>5. Regional Planning</b>          |                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| Ministerial Directions                                                       | Aim of the Direction                                                                                                | Consistency and Implications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5.1 Implementation of Regional Strategies                                    | This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA     | The planning proposal is consistent with the aims and objectives of the LHRS 2006 as it complies with the principles of the strategy and will provide valuable economic, social and potentially environmental benefits to the region. The Mt Harris Investigation Area is identified in the MUSS 2008 as a site for Preferred Rural Residential development which is endorsed by the Department of Planning. Therefore it is considered that the planning proposal is consistent with the aims of this direction.                                                                                                                      |
| 5.2 Sydney Drinking Water Catchments                                         | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast   | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 5.5 Development in the vicinity of Ellalong, Paxton and Millfield            | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 5.8 Second Sydney Airport: Badgerys Creek                                    | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>6. Local Plan Making</b>                                                  |                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 6.1 Approval and Referral Requirements                                       | The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development. | The planning proposal does not affect the objectives of this direction and will be consistent with this requirement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 6.2 Reserving Land for Public Purposes                                       | NA                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 6.3 Site Specific Provisions                                                 | This direction aims to discourage unnecessarily restrictive site specific planning controls.                        | <p>In terms of the land use zone applied to the site there are no site specific provisions to be implemented through this planning proposal.</p> <p>However, it is intended that the planning proposal would consider specific provisions relating to the mitigation of noise and vibration impacts of the North Coast Railway Corridor and to ensure the appropriate future urban development of the Mt Harris Investigation Area.</p> <p>Therefore the planning proposal would be inconsistent with the objectives of this direction however this inconsistency is justified as it ensures the mitigation of noise and vibration</p> |

| Ministerial Directions                          | Aim of the Direction | Consistency and Implications                                                                          |
|-------------------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------|
|                                                 |                      | impacts on any future development and ensures the appropriate urban development of the subject lands. |
| <b>7. Metropolitan Planning</b>                 |                      |                                                                                                       |
| 7.1 Implementation of the Metropolitan Strategy | NA                   |                                                                                                       |

**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?

A detailed Flora and Fauna study has been prepared to inform the rezoning proposal which included consideration under Section 5A of the Environmental Planning and Assessment Act 1979. The study identifies two Endangered Ecological Communities (EECs) and a range of endangered and vulnerable threatened flora and fauna species in accordance with the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 and the NSW Threatened Species Conservation Act 1995. Both the Hunter Lowlands Redgum Forest (HLRF) and Lower Hunter Spotted Gum- Ironbark Forest (LHSGIF) exist within the investigation area along the north western boundary and in a small cluster in the south east of the site surrounding the drainage gully flowing toward the south west. In addition remnants of the Alluvial River Oak Forest exist within the riparian vegetation adjacent to the south west boundary of the site fronting the Hunter River.

The flora and fauna assessment of the subject site concludes that due to the largely cleared nature of the investigation area and the retention of riparian vegetation surrounding the Hunter River on the south western boundary, the proposal to develop the investigation area for urban purposes is considered feasible as it will not impact upon locally occurring threatened species. The assessment additionally concludes that the existence of EECs adjacent to the north western boundary of the investigation area poses a constraint to achieving the desired density on site and considered it feasible to remove these hollow bearing EECs if recommendations on removal and replacement are duly considered.

The recommended zoning of 1(d) Rural Residential provides ample opportunity to achieve a feasible density on site without the need to remove any vegetation, specifically the areas accommodating existing EECs and threatened species. DECCW (Department of Environment, Climate Change and Water) and Council consider all vegetation to be of high importance to the LGA, and Council requires recognition of the vegetation at a local scale for maintaining habitat and biodiversity. Resultantly, in accordance with DECCW and Maitland's Greening Plan 2002, all onsite

vegetation is to be retained and where possible, revegetation of the site should be encouraged, specifically the portion of the site which is not developable due to flood liability.

Council is satisfied that future residential development is unlikely to cause any detrimental impacts to the existing flora and fauna on site.

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

It is anticipated that through appropriate mechanisms the protection and management of the biophysical environment will be in accordance with state and local policies. These include the provision of riparian vegetation, bushfire management and native vegetation management.

**Loss of Rural Lands:**

The site has a history of agricultural use including grazing cattle and intensive potato farming for a period of twenty (20) years beginning in the 1970s. At present the site does not support this form of agricultural use and is not utilised.

The Maitland Rural Strategy 2005 provides a land use planning management framework for Maitland's rural lands. The MRS 2005 in accordance with Department of Industry and Investment (Primary Industry Division) requirements identifies the Mt Harris site as supporting a small portion prime agricultural land classes 1 and 2. This area is subject to inundation from 1:100 year flood and therefore is not considered within this planning proposal for rezoning. This portion of the site is not large enough to support sustainable agricultural practices and therefore is proposed to be zoned under the comprehensive Maitland LEP 2011 as Rural Landscape to maintain the rural character of the land at Mt Harris.

**Bushfire**

An appropriate bushfire assessment has been prepared by the proponent to address bushfire risk, in accordance with Planning for Bushfire Protection 2006. The assessment identified the areas of bushfire prone land taking into consideration the slope and aspect of the site. The bushfire prone land and its buffer which exists on the west and North West of the site is upslope from any potential development. The potential development on the north east and east of the site is upslope from the bushfire prone land in the east causing a greater threat to the property and any potential developments.

Consequently it is necessary that further consideration is focussed on determining the extent of hazard reduction required to minimise bushfire risk in terms of any proposed development. This can occur at the development assessment stage. Consultation with the NSW Rural Fire Service has determined that the bushfire risk poses no issues to the rezoning of the subject lands for urban purposes.

### Traffic and Transport

A traffic and transport assessment has been completed as part of the proposal for rezoning. The subject site has access to the existing road network at the intersection of Mt Harris Drive and Maitland Vale Road, and access to the arterial road network at the intersection of Maitland Vale Road and Tocal Road. The assessment report addresses the likely impacts of future urban development within the investigation area as well as the immediate surroundings and impacts on major roads in the locality, including Maitland Vale Road and Tocal Road. The report complies with the RTA's guidelines for traffic generating developments and Council is satisfied that the existing road network is capable of supporting the additional traffic loads that are likely to be generated as a result of the rezoning and future residential development of the site and it would continue to operate at a satisfactory level of service. That is there would be no adverse impacts to the network caused by this additional traffic generated.

### Flooding and Drainage

The site is predominantly located within two small drainage catchments. The first catchment channels flows from either the North West to south east ridgeline or the east to south ridgeline on the far eastern boundary of the site. This is the larger catchment with elevations varying from 9m AHD at the eastern site boundary to 80m AHD in the north east corner of the catchment. The second smaller catchment channels surface flows from east of the site to the south west of the site and into the Hunter River. The lower, less undulating region of the site lies to the south and is subject to flooding in the 1:100 year flooding event and hence cannot be developed. This area is not included as part of the Mt Harris Investigation Area identified within the endorsed MUSS 2008 as the flooding constraints pose to high a risk to develop and therefore is not proposed for rezoning.

### Noise and Vibration

Due to the proximity of the site to the North Coast Railway corridor there is significant potential to impact on the amenity of future development, particularly along the eastern boundary of the site. An acoustics and vibration assessment has been prepared to inform the rezoning proposal. The assessment was completed in accordance with the NSW Department of Planning (DoP) publication, Development Near Rail Corridors and Busy Roads Interim Guideline. The assessment has taken into consideration the likely impacts of rail movements along the existing rail line, as well as the likely impacts from traffic generated along Maitland Vale Road.

Upon discussions with DECCW, it is considered pertinent that DECCW guidelines relating to noise and vibration, with particular focus on proximity of development to railway corridors, be additionally used in reference as the DoP publication, Development Near Rail Corridors Interim Guidelines, does not consider external amenity. It is noted that the usage of either guidelines is based on the site specific needs for the subject lands.

The noise and vibration report identified that a 60m noise and vibration buffer between the railway corridor and any potential future development, as considered in the DoP guidelines, is appropriate for this site. This is recognised, however it does not indicate external amenity, nor that future development of the site will be rural residential in nature and therefore land will be bought with an expectation of open amenity both inside and outside the house. It is acknowledged that for houses built within the day rail noise contour criterion of 60dB which loosely coincides with the 60m buffer, mitigation will be required including the necessity to leave windows closed to restrict noise.

However, the noise and vibration report considers that configuration of dwellings should be located greater than 60m from the nearest operational rail track or situated west of the adopted day and night period rail traffic noise contour criterions. As the night contour is 55dB, it is considered appropriate to prohibit any development for human habitation purposes in areas within the Mt Harris Investigation which exceed this noise criterion contour.

ARTC noted that rural residential development would not be considered favourable in those areas where the noise levels are exceeded due to the impacts of the rail corridor. Consequently, it is intended to include an amendment to the Maitland Citywide Development Control Plan and additional LEP provisions which will mitigate the impacts of noise and vibration from the North Coast Railway Corridor on any future development on the site. The implementation of the 1(d) Rural Residential Zone across the Mt Harris Investigation Area will ensure any potential lots are large enough to support a building envelope outside of those areas impacted by the exceeded levels of noise.

#### Acid Sulphate Soils (ASS)

The subject site forms part of the Hunter River Alluvial Flood Plain. Acid Sulphate Soil risk maps indicate the potential for Acid Sulphate Soils along the bank of the Hunter River and within the low lying gully system on the south west corner of the site.

The planning proposal does not propose the rezoning of lands for urban purposes in the flood liable low lying gully system in the south west corner of the site. Resultantly the risk of Acid Sulphate Soils does not prevent the progression of the planning proposal. However, any development proposed in those areas identified as potential for Acid Sulphate Soils would require a detailed Acid Sulphate Soils Assessment to be undertaken to detail potential risk and appropriate management.

#### Mine Subsidence

The proposed area for rezoning does not lie within a Proclaimed Mine Subsidence District.

NSW Paterson Topographical Map series R751 indicates there is a presence of an 'old shaft' located in the central area of the site. Further investigation and assessment of the type, size and location undertaken to assess its hazard in terms of any potential development identified that the that it is not considered a hazard associated with past mining as Department of Industry and Investment and Mine Subsidence Board have no record of mining being undertaken in this area.

Past quarrying practices are visible along the western boundary of the site. This has been investigated and a geotechnical assessment of the site has indicated that the past practices pose no risk of unstable land occurring on the subject lands to be rezoned.

#### Contamination Assessment

A revised contamination assessment was prepared by the proponent, in accordance with State Environmental Planning Policy (SEPP) No. 55- Remediation of Land, to inform the rezoning process. The contamination assessment identified a number of contaminants on site and recommended that these contaminants be remediated, in particular Arsenic. The contamination assessment report has been reviewed by Council's Senior Environmental Health Officer and it is considered imperative that the management of Arsenic contaminants be included as part of the remediation of the site, specifically as the analysis completed in this report gives significant results above the background level. It is considered important that validation be undertaken as there is no explanation of the source of the Arsenic except that it is related to filling associated with dams and dam embankments.

Consequently, Council is satisfied that the contamination which exists on site will not preclude the rezoning of lands for urban purposes subject to the remediation occurring.

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

The planning proposal provides increased housing opportunities within the Maitland LGA including the possibility for a diverse range of housing choice including a combination of residential/ rural residential options. Any increase in supply of housing will increase the need for the provision of open space and recreational services including community facilities, passive and active open space areas either within or utilising existing facilities in the immediate area. This will be considered in the preparation of the DLEP and infrastructure plan.

Servicing of the Mt Harris Investigation Area would involve the extension of utility infrastructure from Bolwarra and Maitland Vale Road. The services which are not currently provided such as wastewater have been further investigated and relevant authorities have been consulted with so as to establish the capabilities and viability for the provision of these services to the site. The details of the consultation with relevant utilities, infrastructure and service providers is detailed in Section D, 11 Adequate Public Infrastructure and 12 Consultation with State and Commonwealth Authorities.

#### Visual Assessment

The subject site forms part of the distant horizon viewed from parts of the lower sections of Maitland; however this is mainly the northern ridge of the subject land and the north western part of the site adjoining Mt Harris. The site is generally quite secluded in close view due to the undulating topography and vegetation. Views are predominantly of the northern and north western parts of the site from Bolwarra Heights, Oakhampton, Oakhampton Heights and Aberglasslyn. The predominant scenic element from the lower areas of the LGA is Mt Harris and its vegetated escarpment. This is outside the Mt Harris Investigation Area yet is the defining characteristic of the site from distant view. As a result, further controls will be considered through the preparation of an

amendment to the Maitland Citywide Development Control Plan and will need to be considered at a development assessment stage to implement management of visual amenity.

#### Heritage and Archaeological Significance

The subject site does not contain any listed items of European heritage significance. There are seven heritage items identified within the vicinity of the subject lands. It is these items which are at risk of experiencing a detrimental visual impact from any potential development to come about as a result of the rezoning. Six of the items are specifically at Oakhampton, Oakhampton Heights, Maitland and Aberglasslyn. The seventh item is the North Coast Railway Corridor. The items are within the wider visual catchment of Mt Harris and resultantly further controls would need to be considered at the development assessment stage to implement management of potential impacts.

An Archaeological Heritage Assessment was undertaken by Myall Coast Archaeological which included assistance from Mindaribba Local Aboriginal Land Council and Lower Wannaruah Tribal Council. Preliminary investigations determined that no evidence of Aboriginal items or places of significance existed on site despite the sites close proximity to the Hunter River, which inferred Aboriginal groups use and occupation of the land. Resultantly there is no adverse impact on heritage and archaeological significance in terms of the proposed rezoning.

### **Section D – STATE and COMMONWEALTH INTERESTS**

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

Servicing of the Mt Harris Investigation Area involves the augmentation of existing public infrastructure to service the proposed expanded population.

Consultation with relevant government agencies and public authorities has identified that telecommunications and electricity utilities are available and can be provided to the site. Water and wastewater are not provided to the site at present. However further investigations and consultation with relevant authorities has indicated that there is capacity in the existing water and wastewater supply network to supply the proposed development. In terms of waste water there is capacity to service the proposed development, subsequent to future upgrades to the catchment, as indicated by Hunter Water Corporation. These upgrades will service on a first in, first served basis and while the future upgrades are planned for 2016-2017, this timing may be subject to change depending on the demand requirements of the development of the area. Resultantly at a development assessment stage, servicing strategies may be necessary to be completed by the proponent so as to ascertain the timely and cost-effective provision of those services to the site prior to construction.

There is both adequate provision of public infrastructure to the site at present and there is provision for increased public infrastructure in the future, therefore there is justification for the progression of this planning proposal for the rezoning of Mt Harris Investigation Area.

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

Advice was sought from the following government agencies and public authorities who may be impacted by a zoning change in the Mt Harris Investigation Area:

- Telstra Corporation
- Department of Investment and Industry
- NSW Rural Fire Service (RFS)
- Australian Rail Track Corporation (ARTC)
- Ministry of Transport
- Department of Water and Energy
- Mine Subsidence Board
- State Emergency Services
- Department of Environment, Climate Change and Water
- Hunter Water Corporation
- Roads and Traffic Authority
- Energy Australia
- Mindaribba Local Aboriginal Land Council

Most agencies has no objections to the proposed rezoning of the Mt Harris Investigation Area for urban purposes with the extent of comments detailing the requirements to be considered during the progression of the rezoning and more specifically at a development assessment stage.

However a response received from Department of Industry and Investment NSW- Primary Industry Division detailed concern regarding the development of the site for urban purposes as the site has significant agricultural resources and valuable rural characteristics. The endorsed MUSS 2008 justifies the opportunities for rural residential development of the site as the portion of land to be rezoned is not large enough to support sustainable agricultural practices and there are no viable minerals or extractive resources on site. The retention of the rural land use zone on the portion of the site not identified in the MUSS 2008 will enable the conservation of those rural characteristics of the site and mitigate the impacts to riparian vegetation on site.

An additional concern raised by the Department of Industry and Investment NSW is the potential for the rezoning and any development on site to create an additional five landholder rights to extract water from the Hunter River, instead of the current single entitlement. The planning proposal has addressed this through the retention of the 1(b) Secondary Rural Lands Zone for the remaining portion of the site which is not included in the Mt Harris Investigation Area which adjoins the Hunter River. This will limit any potential development creating additional landholder rights to extraction.

Council is satisfied that any concerns raised through consultation with government agencies and public authorities have been justified and that the requirements outlined by those government agencies and public authorities does not preclude the continuation of the rezoning.

A copy of the public authority and government agency responses is provided in **Appendix 5- Consultation with Government Agencies and Public Authorities**.

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## **PART 4: COMMUNITY CONSULTATION**

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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 planning proposal does not meet the criteria and definition of being a 'low impact planning proposal', given that the land is located in a visually prominent location and is impacted by a number of environmental constraints. Therefore, it is intended for this proposal to be exhibited for a period of twenty-eight (28) days.

In accordance with Council's adopted *Community Engagement Strategy (March 2009)*, consultation on the proposed rezoning will be to inform and receive limited feedback from interested stakeholders. To engage the local community the following will be undertaken:

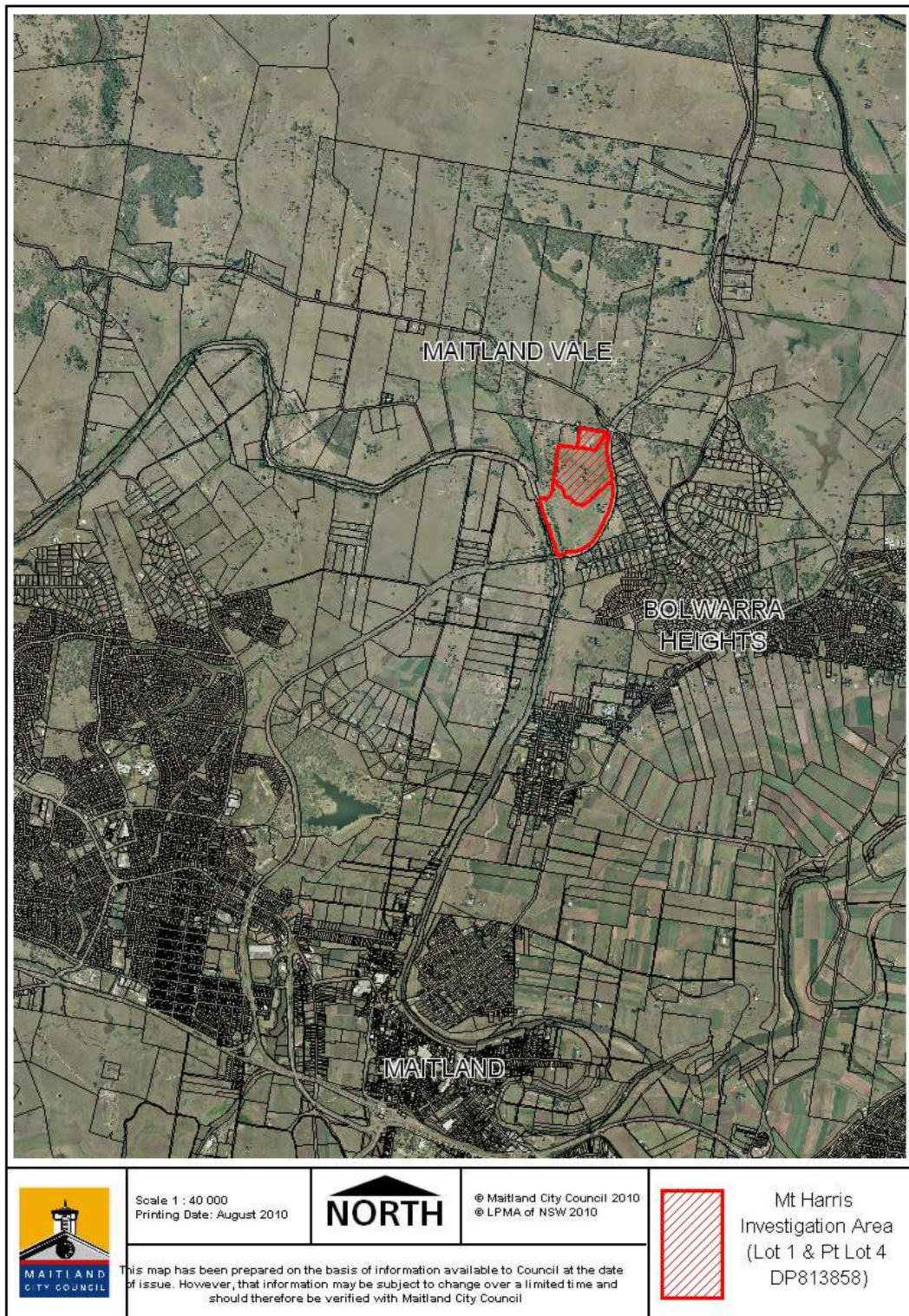
- Notice in the local newspaper;
- Exhibition material and relevant consultation documents to be made available at Council's, Rutherford Library, Central Maitland Library and Council's Administration Building;
- Consultation documents to be made available on Council's website; and
- Letters, advising of the proposed rezoning and how to submit comments will be sent to adjoining landowners 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.

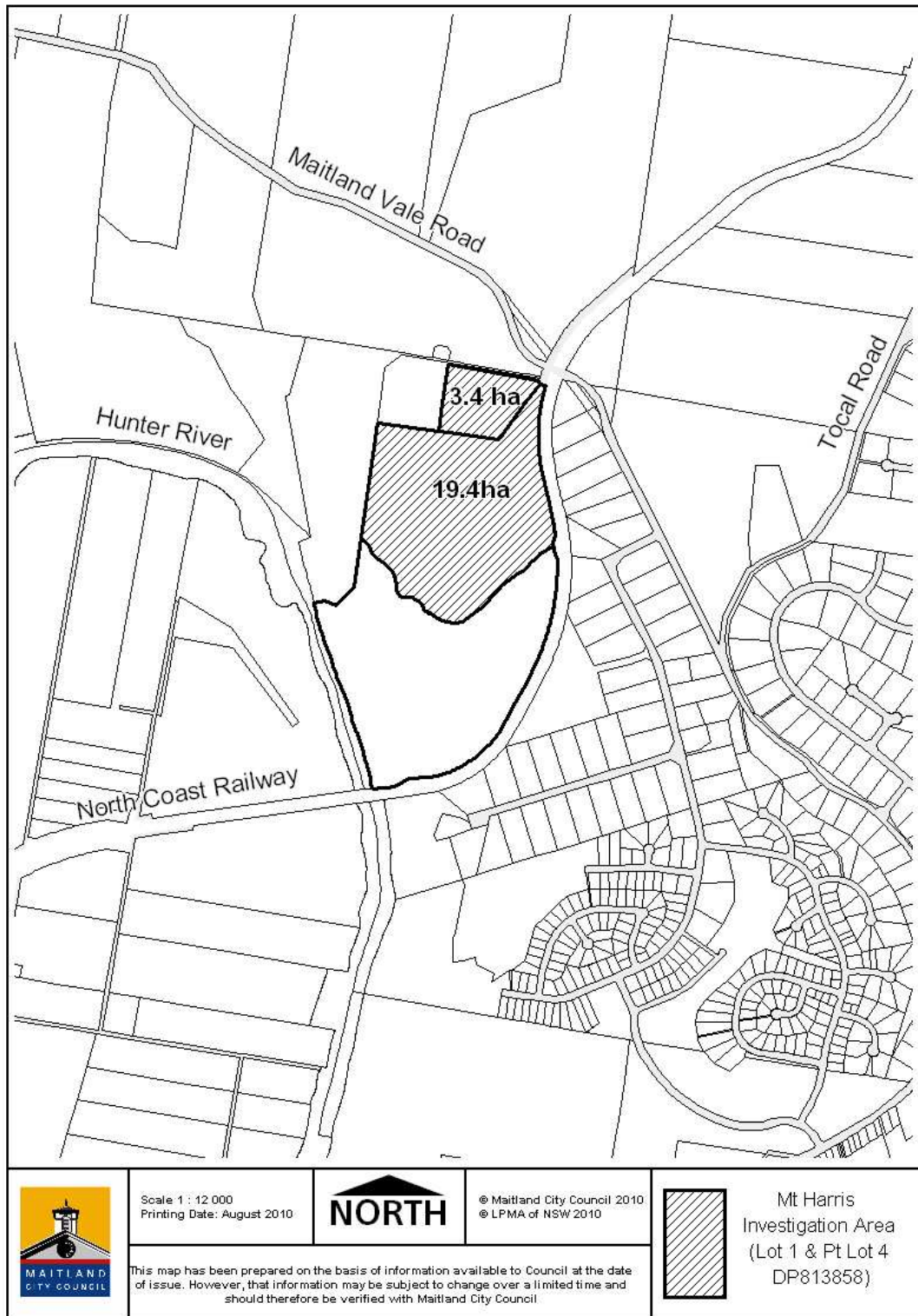
The consultation process, as outline above does not prevent any additional consultation measures that may be determined appropriate as part of the 'Gateway' determination process.

# **Appendix ONE**

## **Location Maps**

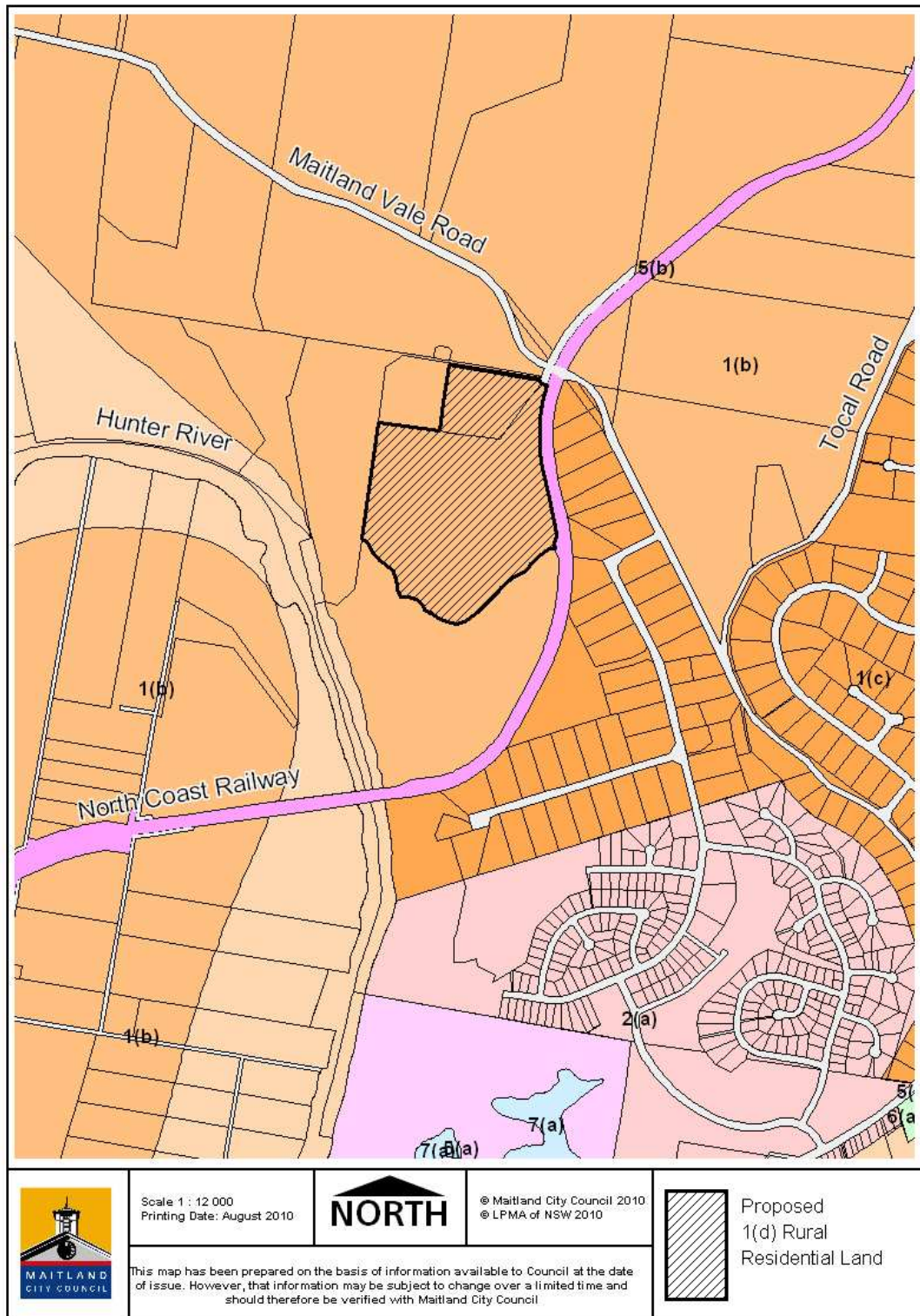


**Map 1: Locality Map showing Aerial Photograph of the site.**

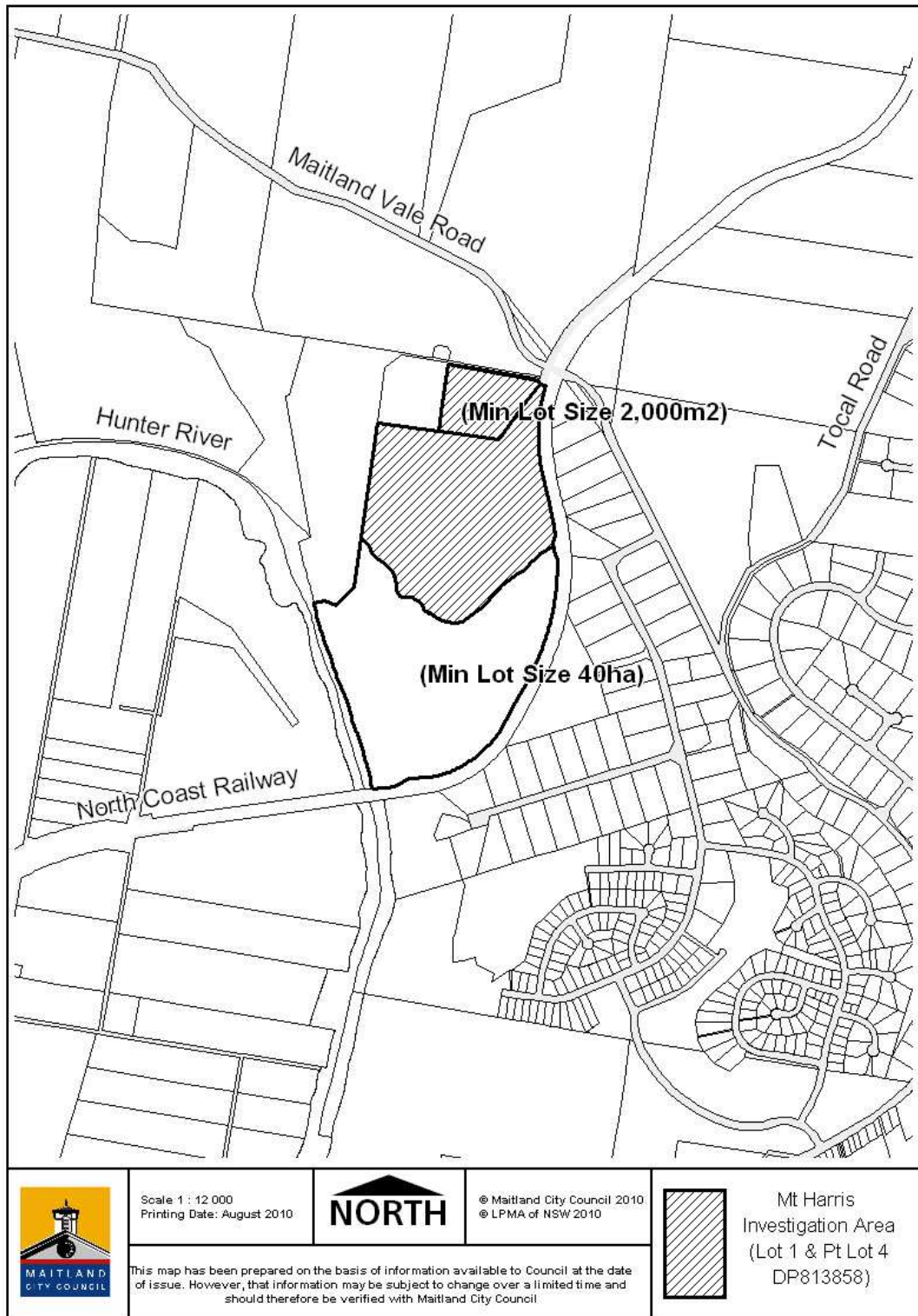


**Map 2: Area of Mt Harris Investigation Area.**

**Appendix TWO**  
Proposed Zoning Map  
and  
Proposed Minimum Lot Size Map



**Map 3: Proposed Zoning for Mt Harris Investigation Area**



**Map 4: Proposed Minimum Lot Size for Mt Harris Investigation Area**

## **Appendix THREE**

### **Council Report and Minutes**

To be included post Council resolution.

**10.5 AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA**

**File No:** RZ07004  
**Attachments:** 1. Planning Proposal  
**Responsible Officer:** Leanne Harris - Group Manager Service Planning and Regulation  
Monica Gibson - Manager City Strategy  
**Author:** Claire Tew - Assistant Town Planner

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**EXECUTIVE SUMMARY**

*At it's meeting of the 12 May 2009, Council resolved to prepare a Draft Local Environmental Plan (DLEP) to rezone lands within the Mt Harris Investigation Area for urban purposes. The resolution for the proposed rezoning was notified to the Director- General of the Department of Planning (DoP), pursuant to the former Section 54(4) of the Environmental Planning and Assessment Act 1979.*

*In order to proceed with the rezoning of lands within Mt Harris Investigation Area in a timely manner, Council is seeking to convert the current rezoning proposal to a planning proposal in order for it to be assessed under the new gateway determination.*

*Following the completion of further detailed site investigations and consultation with relevant public authorities, a planning proposal has been prepared with the objective to enable low density residential development of lands within the Mt Harris Investigation Area, fronting Mt Harris Drive, Maitland Vale.*

*It is proposed to rezone the subject lands from 1(b) Secondary Rural Lands to 1(d) Rural Residential and to amend the Maitland Local Environmental Plan 1993. This enables the rezoning to progress independently of the Draft Maitland LEP 2011 and the timely progression of Council's adopted land release program.*

*The planning proposal is consistent with Council's adopted Maitland Urban Settlement Strategy (MUSS) 2008, which was endorsed by the Department of Planning on 1 September 2009.*

**OFFICER'S RECOMMENDATION****THAT**

- 1. The draft Local Environmental Plan (DLEP) for the Mt Harris Investigation Area be endorsed as the rezoning of lands to zone 1(d) Rural Residential, as detailed in the attached planning proposal.**
- 2. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the**

Department of Planning recommending the rezoning of lands within Mt Harris Investigation Area to enable low density residential development of the site.

3. If the planning proposal is given a gateway determination to proceed, consultation with the community in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and the directions of the gateway determination, be undertaken.
4. A further report be presented to Council following the public consultation process, to demonstrate compliance with the gateway determination and to provide details of any submissions received during that process.
5. In accordance with Section 74 C (1)(a) of the Environmental Planning and Assessment Act 1979, Council prepare an amendment to the Maitland Citywide Development Control Plan to include detailed provisions with respect to any future urban development carried out on lands within the Mt Harris Investigation Area.

#### **COUNCIL RESOLUTION**

##### **THAT**

1. The draft Local Environmental Plan (DLEP) for the Mt Harris Investigation Area be endorsed as the rezoning of lands to zone 1(d) Rural Residential, as detailed in the attached planning proposal.
2. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning recommending the rezoning of lands within Mt Harris Investigation Area to enable low density residential development of the site.
3. If the planning proposal is given a gateway determination to proceed, consultation with the community in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and the directions of the gateway determination, be undertaken.
4. A further report be presented to Council following the public consultation process, to demonstrate compliance with the gateway determination and to provide details of any submissions received during that process.
5. In accordance with Section 74 C (1)(a) of the Environmental Planning and Assessment Act 1979, Council prepare an amendment to the Maitland Citywide Development Control Plan to include detailed provisions with respect to any future urban development carried out on lands within the Mt Harris Investigation Area.

Moved Clr Garnham, Seconded Clr Fairweather

**CARRIED**

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 12 for and 0 against, as follows:

|      |                 |          |
|------|-----------------|----------|
| For: | Clr Baker       | Against: |
|      | Clr Blackmore   |          |
|      | Clr Casey       |          |
|      | Clr Fairweather |          |
|      | Clr Garnham     |          |
|      | Clr Geoghegan   |          |
|      | Clr Humphery    |          |
|      | Clr Meskauskas  |          |
|      | Clr Mudd        |          |
|      | Clr Penfold     |          |
|      | Clr Tierney     |          |
|      | Clr Wethered    |          |

**10.5 AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA**

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*Following the completion of further detailed site investigations and consultation with relevant public authorities, a planning proposal has been prepared with the objective to enable low density residential development of lands within the Mt Harris Investigation Area, fronting Mt Harris Drive, Maitland Vale.*

*It is proposed to rezone the subject lands from 1(b) Secondary Rural Lands to 1(d) Rural Residential and to amend the Maitland Local Environmental Plan 1993. This enables the rezoning to progress independently of the Draft Maitland LEP 2011 and the timely progression of Council's adopted land release program.*

*The planning proposal is consistent with Council's adopted Maitland Urban Settlement Strategy (MUSS) 2008, which was endorsed by the Department of Planning on 1 September 2009.*

**OFFICER'S RECOMMENDATION****THAT**

- 1. The draft Local Environmental Plan (DLEP) for the Mt Harris Investigation Area be endorsed as the rezoning of lands to zone 1(d) Rural Residential, as detailed in the attached planning proposal.**
  - 2. In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a planning proposal be submitted to the Department of Planning recommending the rezoning of lands within Mt Harris Investigation Area to enable low density residential development of the site.**
  - 3. If the planning proposal is given a gateway determination to proceed,**
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AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)

**consultation with the community in accordance with Section 57 of the Environmental Planning and Assessment Act 1979 and the directions of the gateway determination, be undertaken.**

- 4. A further report be presented to Council following the public consultation process, to demonstrate compliance with the gateway determination and to provide details of any submissions received during that process.**
- 5. In accordance with Section 74 C (1)(a) of the Environmental Planning and Assessment Act 1979, Council prepare an amendment to the Maitland Citywide Development Control Plan to include detailed provisions with respect to any future urban development carried out on lands within the Mt Harris Investigation Area.**

## **REPORT**

The purpose of this report is to:

- Provide a background to the rezoning process undertaken prior to this point for the Mt Harris Investigation Area;
- Provide information to enable the Council to determine whether an amendment should be made to the Maitland Local Environmental Plan 1993 for the purpose of rezoning lands for urban purposes; and
- Provide a summary of the planning proposal for the Mt Harris Investigation Area for submission to the Department of Planning as an amendment to the Maitland LEP 1993.

## **Background**

The Mt Harris Investigation Area is identified in the Maitland Urban Settlement Strategy (MUSS) 2008 as a site for preferred rural residential development. The MUSS 2008 was endorsed by the Department of Planning (DoP) on the 1 September 2009.

The Mt Harris Investigation Area includes lands referred to as Lot 1 and part of Lot 4 DP 813858 Mt Harris Drive, Maitland Vale. The Investigation Area is defined by Mt Harris Drive to the north, the North Coast Railway Corridor to the east, the vegetated escarpment of Mt Harris to the west and the flood liable lands adjoining the Hunter River to the south.

At its meeting of the 12 May 2009, Council resolved to prepare a Draft Local Environmental Plan (DLEP) for the Mt Harris Investigation Area. The resolution to rezone the lands for urban purposes was notified to the Director-General of the Department of Planning (DoP), pursuant to the former Section 54 (4) of the Environmental Planning and Assessment Act 1979. No Section 65 Certificate has been issued for the DLEP.

Subsequent to this resolution, Council has completed further investigations of the site and its constraints. The revised rezoning proposal and site specific environmental studies, submitted to Council by HDB in December 2009 and July 2010, have also been assessed.

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AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)

### **Planning System Reforms**

Since Council's resolution to prepare the Draft Local Environmental Plan (DLEP) for Mt Harris Investigation Area on 12 May 2009, the NSW planning system has undergone various reforms. Most significant to this DLEP is the reform of the plan-making system and the repeal and replacement of Part 3 of the Environmental Planning and Assessment Act 1979.

In accordance with the reforms to the Environmental Planning and Assessment Regulations 2000- a DLEP notified to the Director-General of the Department of Planning before 1 July 2009 is required to be completed by 1 January 2011.

As the Draft Local Environmental Plan (DLEP) for the Mt Harris Investigation Area was commenced under the previous plan-making provisions it is protected by savings and transitional provisions until 1 January 2011. However, it is the intention of preparing the planning proposal to transfer the DLEP into the new plan-making provisions. This is consistent with the Department of Planning's Planning Circular PS10-002.

Consequently, to proceed with the rezoning of lands within Mt Harris Investigation Area, Council is seeking to convert the current rezoning proposal to a planning proposal in order for it to be assessed under the new gateway determination. This enables the rezoning to progress independently of the Draft Maitland LEP 2011 and is consistent with advice from Department of Planning. It also enables the timely progression of Council's adopted land release program as considered in the MUSS 2008.

A planning proposal has therefore been prepared in accordance with the Environmental Planning and Assessment Amendment Act 2008 and the Environmental Planning and Assessment Amendment (plan Making) Regulation 2009.

### **Rezoning Proposal**

The planning proposal explains the intended effect and justification for the proposed amendment to Maitland Local Environmental Plan 1993 with regard to lands within the Mt Harris Investigation Area.

The purpose of the planning proposal is to rezone the subject lands known as Mt Harris Investigation Area for urban purposes, through amending the Maitland LEP 1993.

The amendment would rezone the subject lands from 1(b) Secondary Rural Lands to 1(d) Rural Residential Lands. The balance of the site would remain as 1(b) Secondary Rural Lands due to the flood liable constraints on this portion of the site. The amendment would achieve the objectives of the planning proposal as it would enable low density residential development of the site and facilitate conservation of the rural landscape of the site and its surrounding locality.

Under the provisions of the Maitland LEP 1993 the minimum lot size for the 1(d) Rural Residential Zone is 2,000 square meters and for the 1(b) Secondary Rural Lands Zone the minimum lot size is 40 hectares. This zoning scheme would protect the riparian vegetation corridor adjoining the Hunter River at the south west of the site, would achieve a dwelling density on site appropriate with the rural residential setting and existing adjacent development, as well as mitigate the noise and vibration impacts from the North Coast Railway Corridor.

## AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)

It is also considered that these objectives of the planning proposal would be supported by the preparation of an amendment to the Maitland Citywide Development Plan and the addition of LEP site specific provisions in order to ensure the appropriate future development of the Mt Harris Investigation Area.

The following table and the locality plan contained in the planning proposal identify the land to be affected by the rezoning.

| Land Description                                                                      | Current Zoning                 | Proposed Zoning                                                 |
|---------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------------------|
| Lot 1 DP 813858 (Total Area: 3.4 ha)<br>Part of Lot 4 DP 813858 (Total Area: 19.4 ha) | Zone 1(b) Secondary Rural Land | Zone 1(d) Rural Residential with a Minimum Lot Size of 2000 sqm |

The objective of the 1(d) Rural Residential zone is to encourage development for the purpose of rural settlement on land which is suitable for such a purpose and to maintain the semi-rural character and environmental values of the locality.

The rezoning of the subject lands would enable the development of the Mt Harris Investigation Area, supporting the growing residential population within the central sector of the Maitland LGA. The land has largely exhausted its historical agricultural use and the proposal to develop the land for urban purposes will result in an improved outcome and a higher order use of the land with the existing environmentally sensitive areas conserved due to the preparation of a development control plan to guide any future urban development on site.

The planning proposal for the Mt Harris Investigation Area is consistent with planning objectives and policy framework of the Council's strategies as it demonstrates consideration of the environmental, social and economic issues and principles of the MUSS 2008 which is detailed in Section C of the planning proposal.

The Planning Proposal is attached to this report as **Attachment 1- Planning Proposal**. This document outlines the objectives of the LEP amendment and the justification for the proposed rezoning.

### Maitland LEP 2011

The planning proposal signals Council's intent for future zoning decisions in relation to Council's preparation of the Maitland LEP 2011. The provisions of the 1(d) Rural Residential Zone implemented under the current Maitland LEP 1993 are the equivalent of the R5 Large Lot Residential Zone under the Maitland LEP 2011 as this provides for low density development whilst maintaining the rural landscape and ecological value of the locality.

### Environmental Studies

A detailed planning assessment of the Mt Harris Investigation Area and its site specific constraints has been completed by Council. This assessment was informed by the site specific environmental studies submitted to Council by the applicant.

The following matters were identified as significant constraints of the Mt Harris Investigation Area:

- Noise and vibration impacts from the North Coast Railway Corridor;

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**AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)**

- Servicing and infrastructure provision;
- Visual and rural amenity impacts;
- Contamination;
- Site context;
- Ecological impacts and;
- Flooding.

It is considered that these matters would be adequately addressed through the amendment to the Maitland LEP 1993 that would rezone the Mt Harris Investigation Area to 1(d) Rural Residential Lands. The retention of the 1(b) Secondary Rural Lands on the balance of the site will ensure the protection of the flood liable and ecologically sensitive portion of the site.

Furthermore, the preparation of an amendment to the Maitland Citywide Development Control Plan and the addition of LEP provisions relating to the any future development on the site will ensure suitable development of the site for urban purposes. This will achieve the objectives of the planning proposal and the desired future outcomes for the Mt Harris Investigation Area.

**Consultation with Public Authorities**

In conjunction to site specific assessment of constraints, advice was sought from the following government agencies and public authorities in relation to the rezoning of the Mt Harris Investigation Area:

- Telstra Corporation;
- Department of Investment and Industry;
- NSW Rural Fire Service (RFS);
- Australian Rail Track Corporation (ARTC);
- Ministry of Transport;
- Department of Water and Energy;
- Mine Subsidence Board;
- State Emergency Services;
- Department of Environment, Climate Change and Water;
- Hunter Water Corporation;
- Roads and Traffic Authority;
- Energy Australia and;
- Mindaribba Local Aboriginal Land Council.

Most agencies had no objections to the proposed rezoning of the Mt Harris Investigation Area for urban purposes with the extent of comments detailing the requirements to be considered during the progression of the rezoning and more specifically at a development assessment stage. A detailed summary of the government agency responses is included within the Planning Proposal.

Council is satisfied that any concerns raised through consultation with government agencies and public authorities have been justified and that the requirements outlined by those government agencies and public authorities do not preclude the continuation of the rezoning.

**Amendment to Maitland Citywide Development Control Plan (DCP)**

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AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)

The preparation of an amendment to the Maitland Citywide Development Control Plan is necessary to ensure the appropriate urban development of the site is achieved and the site specific constraints of the Mt Harris Investigation Area are mitigated.

As the Mt Harris Investigation Area is not an Urban Release Area, it is not captured under the provisions of Part 12 of the Maitland Local Environmental Plan 1993. Consistent with other green field urban release areas in Maitland and due to the site specific constraints of the site, the preparation of an amendment to the Maitland Citywide Development Control Plan is appropriate.

This would achieve the objectives for the Mt Harris Investigation Area as detailed in the attached planning proposal and would ensure:

- The preservation of the visual amenity and the rural character of the Investigation Area;
- That any future urban development would respond sensitively to the density and scale of existing adjoining settlements;
- The mitigation of noise and vibration impacts from the North Coast Railway Corridor;
- The protection of the environmentally sensitive nature of parts of the site;
- The interconnectivity with services and infrastructure.

If Council resolves to prepare an amendment to the Maitland Citywide Development Control Plan (DCP) it would continue concurrently with the progress of the DLEP for the subject lands; however the final adoption of the DCP would only be necessary to be completed prior to subdivision determination for any future urban development within the Mt Harris Investigation Area.

**Next Steps**

If endorsed by Council, the planning proposal will be submitted to the Department of Planning for gateway approval to proceed with the amendment to the Maitland LEP 1993. The gateway determination will either be (i) exhibit the planning proposal, with or without change, or (ii) to refuse the planning proposal. A positive gateway determination will also make directions about the consultation required for the LEP and a timeframe by which the LEP is to be completed.

The planning proposal will then be exhibited in accordance with the directions of the gateway determination and the requirements of Section 57 of the Environmental Planning and Assessment Act 1979. Formal submissions to the planning proposal will be invited and accepted during the exhibition period.

A further report that considers the submissions and any proposed changes to the planning proposal will then be presented to Council.

Post exhibition of the DLEP, a secondary report would be presented to Council that considers the details of the preparation of an amendment to the Maitland Citywide Development Control Plan.

**CONCLUSION**

Council has previously resolved to prepare a DLEP for the proposed rezoning of lands within the Mt Harris Investigation Area. However, in order to progress with the rezoning under the gateway process, a planning proposal is necessary to be

**AMENDMENT TO MAITLAND LEP 1993- REZONING OF LANDS KNOWN AS MT HARRIS INVESTIGATION AREA (Cont.)**

endorsed by Council and submitted to the Department of Planning for consideration. This would enable the timely progression of Council's endorsed land release program considered within the MUSS 2008 and would allow the continuation of the rezoning independently of the Maitland LEP 2011.

The rezoning of lands within the Mt Harris Investigation Area will ensure the outcomes of Council's long terms strategic plans (MUSS 2008) are achieved. In addition, the amendment to the Maitland LEP 1993 would result in an improved outcome for the site and a higher order use of the land whilst conserving the rural landscape of the site and its surrounding locality and protecting of the riparian vegetation corridor adjoining the Hunter River.

The planning proposal for rezoning of the subject lands is consistent with Council's adopted strategies and the existing character of the surrounding area.

**FINANCIAL IMPLICATIONS**

This matter is to progress the rezoning of lands within the Mt Harris Investigation Area therefore it has no direct financial impact upon Council's adopted budget or forward estimates.

**POLICY IMPLICATIONS**

The proposed subject lands to which this planning proposal refers has been identified as an Investigation Area within Council's adopted Maitland Urban Settlement Strategy 2008. Therefore it has no specific policy implications for Council.

**STATUTORY IMPLICATIONS**

This planning proposal is progressing the rezoning in line with relevant legislative requirements under the Environmental Planning and Assessment Act 1979 and associated regulations.

There are no statutory implications under the Local Government Act 1993 with this matter.

## **Appendix FOUR**

### **Applicable State Environmental Planning Policies**

| <b>State Environmental Planning Policy (SEPP)<br/>Applicable to the Maitland LGA</b>                                    |
|-------------------------------------------------------------------------------------------------------------------------|
| State Environmental Planning Policy No 1—Development Standards                                                          |
| State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development |
| State Environmental Planning Policy No 6—Number of Storeys in a Building                                                |
| State Environmental Planning Policy No 14—Coastal Wetlands                                                              |
| State Environmental Planning Policy No 15—Rural Landsharing Communities                                                 |
| State Environmental Planning Policy No 19—Bushland in Urban Areas                                                       |
| State Environmental Planning Policy No 21—Caravan Parks                                                                 |
| State Environmental Planning Policy No 22—Shops and Commercial Premises                                                 |
| State Environmental Planning Policy No 30—Intensive Agriculture                                                         |
| State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)                             |
| State Environmental Planning Policy No 33—Hazardous and Offensive Development                                           |
| State Environmental Planning Policy No 36—Manufactured Home Estates                                                     |
| State Environmental Planning Policy No 44—Koala Habitat Protection                                                      |
| State Environmental Planning Policy No 50—Canal Estate Development                                                      |
| State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas             |
| State Environmental Planning Policy No 55—Remediation of Land                                                           |
| State Environmental Planning Policy No 60—Exempt and Complying Development                                              |
| State Environmental Planning Policy No 62—Sustainable Aquaculture                                                       |
| State Environmental Planning Policy No 64—Advertising and Signage                                                       |
| State Environmental Planning Policy No 65—Design Quality of Residential Flat Development                                |
| State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)                                          |
| State Environmental Planning Policy (Affordable Rental Housing) 2009                                                    |
| State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004                                         |
| State Environmental Planning Policy (Exempt and Complying Development Codes) 2008                                       |
| State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004                              |
| State Environmental Planning Policy (Infrastructure) 2007                                                               |
| State Environmental Planning Policy (Major Development) 2005                                                            |
| State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007                       |
| State Environmental Planning Policy (Rural Lands) 2008                                                                  |
| State Environmental Planning Policy (Temporary Structures) 2007                                                         |

## **Appendix FIVE**

### Consultation with Government Agencies and Public Authorities



## Industry & Investment

Our reference; OUT09/12295

17 September 2009

Monica Gibson  
Maitland City Council  
PO Box 220  
Maitland, NSW 2320

Dear Monica

**Section 62 consultation, proposed rezoning of Lot 1 and 4 DP 813858  
Mt Harris Drive, Maitland Vale.  
Your ref: RZ07004**

Thank you for your letter of 12 August 2009 notifying the Department of the exhibition of Council's Draft Local Environmental Plan (LEP).

Industry & Investment NSW (I&I NSW) has been formed by the merger of related NSW Government departments and authorities, including the former Department of Primary Industries (NSW DPI).

This response is an integrated response from I&I NSW Primary Industry Division (Agriculture and Aquatic Habitat Protection). There are no aspects relevant to our Minerals & Energy Division or Forests NSW.

Council's meeting notes from 12 May 2009 (p 207 & 209) identify that;

- The 2 lots have a total area of approximately 44 ha (the SEE states a total area of 64.5ha).
- only 23 ha of the site is included in the Mt Harris Investigation area under councils urban settlement strategy (MUSS).
- part of the site is subject to flooding and it is proposed to zone this for conservation purposes due to its environmental sensitivity

In contrast the SEE and Masterplan developed by HDB for the site indicates that the entire property would be rezoned to Rural 1(d) and subdivided into 67 rural residential lots. The subdivision Masterplan attached to the SEE (p 58) identifies a proposed 74 residential lots. In either case the majority of lots proposed would be less than 0.5 ha.

### **Impact on Agricultural Resources and Development**

The SEE states that property comprises 64.5 ha of land that adjoins the Hunter River. This includes flood prone alluvial river flats and adjoining lands that have been extensively cleared and developed for agriculture.

Council's meeting report of 12 May 2009 notes that the property was used for intensive potato farming for a 20 year period. The combination of resources, its location and scope improved pastures also makes the property well suited for cattle or equine grazing

### **PRIMARY INDUSTRY DIVISION (Resource Planning and Development)**

Total Agricultural Centre, Paterson NSW 2000

Tel: 02 4939 8940 Fax: 02 4939 8950

ABN 51 734 124 190

[www.industry.nsw.gov.au](http://www.industry.nsw.gov.au)

enterprises. The latter is of increasing value in the LGA and suitable properties for new developments in Maitland LGA are difficult to locate.

The SEE (p25) states that the site is not part of a viable agricultural unit and is physically separated from other agricultural lands. Again this statement is not substantiated by any supporting assessment of agricultural resources or development opportunities. The SEE also erroneously claims (p 30) that the property does not comprise prime or viable agricultural lands.

The site is mapped as comprising a mix of Class 1, 2 and 3 agricultural suitability. The property also contains 3 existing dams and is divided into various paddocks and adjoins the Hunter River. The combination of agricultural resources is rare and valuable. Class 1 and 2 lands comprise less than 10% of farmland statewide and are important for future food and fibre production.

Class 1, 2 and 3 agricultural suitability comprise Prime crop and pasture lands. Areas of adjoining Class 4 agricultural land can also be valuable assets when used in conjunction with more productive adjoining lands. I&I NSW consequently cautions that it is the combination of resources and resultant development opportunities within a property or lot that is critical, not just the extent of a particular land class.

Even if the Hunter floodplain areas are excluded from the development, I&I NSW cautions that developing the adjoining farm land for (rural) residential development would significantly restrict the scope for economically sustainable development of this site for future food production or other forms of agriculture. As noted in Councils meeting notes from 12 May 2009 (p209) that the portion of the site is not large enough to support sustainable agricultural practices on its own.

The proposed rezoning and subdivision would additionally create 5 basic landholder rights to extract water from the Hunter River, instead of the current single entitlement. This will put further pressure on the freshwater resources and cumulatively contribute to the reduction of environmental flows.

### **Planning Issues**

Council's report notes that the site forms part of the Hunter River Alluvial Flood plain (p209, as such it would include lands identified in the Lower Hunter Strategy as Regionally Significant Agricultural land. The development of such lands for residential purposes is not supported by the Regional strategy. It would also be contrary to the planning principles set out in the Rural Lands SEPP and to Departmental policies for the protection of agricultural land.

The SEE overlooks this aspect of the Lower Hunter Strategy. It also fails to document how the proposals meets the Sustainability criteria set out in Appendix A. The SEE additionally fails to address how the proposal supports or fits with Maitland Council's Rural Strategy and how it complies with the Rural Lands SEPP and in particular the specified planning principles and subdivision criteria.

A primary justification advanced for the proposal is the (partial) inclusion of the site as an investigation area within the MUSS in order to retain opportunities for further additional rural residential development within the Central Maitland precinct.

I&I NSW is concerned that;

- The proposal is located outside existing residential precincts.
- There are no defining features to distinguish this rural holding from adjoining resource lands. Hence the proposal has a high risk of creating precedent for further rezoning claims and the continued sprawl of urban development.
- Only part of the site is specifically identified in the MUSS and council reports identify the remainder as not being preferred for rural residential development due to flooding constraints and risk.

- The Lower Hunter Regional Strategy identifies this site as Rural Lands and in part regionally significant rural lands, rather than a priority location for residential or urban development.
- The SEE does not consider the cumulative / alternative supply of large lot residential development within other parts of Bolwarra or more broadly across the LGA.
- MUSS fails to appropriately justify why opportunities for continued rural residential development are needed within each separate Maitland precinct.

### Conclusion

I&I NSW does not support the proposed rezoning and subdivision of this parcel of rural land which appears to be additional to the provisions of the Lower Hunter Strategy and to expand on the areas identified in the MUSS.

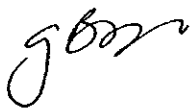
The Department has consistently advised Council against identifying this location for rural residential investigation because of the agricultural resources, the intrusion into rural areas and the available alternatives.

If the proposal is advanced, Council is advised to ensure that relevant studies and documentation is completed to;

1. clarify the site specific agricultural suitability and future options for the site
2. identify how the site is delineated from adjoining farmland and will not create significant precedent for further incremental rural residential rezoning of limited rural resource lands.
3. demonstrate that the proposal will satisfy the sustainability criteria set out in Appendix 1 of the Lower Hunter Strategy, since it is outside of proposals identified in the strategy
4. identify how the proposal addresses the planning principles and satisfies the subdivision criteria set out in the Rural Lands SEPP.
5. document the capacity to sustainably manage stormwater run off and protect or enhance aquatic habitats and water quality in the adjoining Hunter River.
6. demonstrate that the proposed rural residential development will not conflict with or create additional restrictions on the harvesting and management of the forestry plantation

For further enquiries about agricultural issues please contact Glenda Briggs on 4939 8942 or by email at [glenda.briggs@industry.nsw.gov.au](mailto:glenda.briggs@industry.nsw.gov.au).

Yours faithfully



Glenda Briggs  
Resource Management Officer (land use)

Your reference : RZ07004 (688047)  
Our reference : DOC09/40086, FIL06/922-04  
Contact : Richard Bath 4908 6805

|          |             |     |
|----------|-------------|-----|
| DOC No.  | 686818      |     |
| REC'D    | 14 SEP 2009 | MCC |
| FILE No. | RZ07/004    |     |
| REFER    | C. Tew      |     |

Mr David Evans  
General Manager  
Maitland City Council  
PO Box 220  
MAITLAND NSW 2320

Attention: Claire Tew

SCANNED

Dear Mr Evans

**RE: REZONING 07004 – LOT 1 AND 4 DP 813858 – MT HARRIS DRIVE, MAITLAND VALE**

I refer to your correspondence dated 12 August 2009 requesting comments from the Department of Environment, Climate Change and Water (DECCW) in relation to the preparation of a draft Local Environmental Plan (LEP) on the above mentioned site.

**Flora and Fauna**

DECCW has reviewed the report titled '*Flora and Fauna Assessment for a Proposed Rezoning and Subsequent Development - Lots 1, 2 & 4 DP813858 Maitland Vale Road, Maitland Vale* (September 2006). The recommendations and ecological guidelines identified in this report are supported. Proposed ecological outcomes on this site could be enhanced through careful site planning, with the aim of retaining remnant vegetation communities. Revegetation programs proposed for the retained area could be reinforced through the use of appropriate zones and other planning controls.

**Aboriginal Cultural Heritage**

The report titled '*Aboriginal Heritage Assessment Lots 1 & 4, DP 813858 Mount Harris Road, Maitland Vale, NSW - Report to Durndrax Pty Ltd*' (March 7th, 2005) concludes that there is no impact to Aboriginal places or objects. If any subsequent investigations undertaken as part of the local environmental study identify any likely impacts to known Aboriginal cultural heritage values, the applicant will be required to develop appropriate management strategies in accordance with the requirements of Part 6 of the *National Parks and Wildlife Act 1974*, and in consultation with the local Aboriginal communities.

DECCW's 'Interim Community Consultation Requirements for Applicants (2005)' provides an appropriate framework for Aboriginal consultation and is available at:

[www.environment.nsw.gov.au/conservation/AboriginalConsultationInterimGuidelines.htm](http://www.environment.nsw.gov.au/conservation/AboriginalConsultationInterimGuidelines.htm),

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water



### **Local Environmental Study**

When preparing the local environmental study for the above site please note that the department's preliminary assessment advice for this site, dated 25 September 2006, remains valid.

If you have any enquiries concerning this advice, please contact me on 4908 6805.

Yours sincerely

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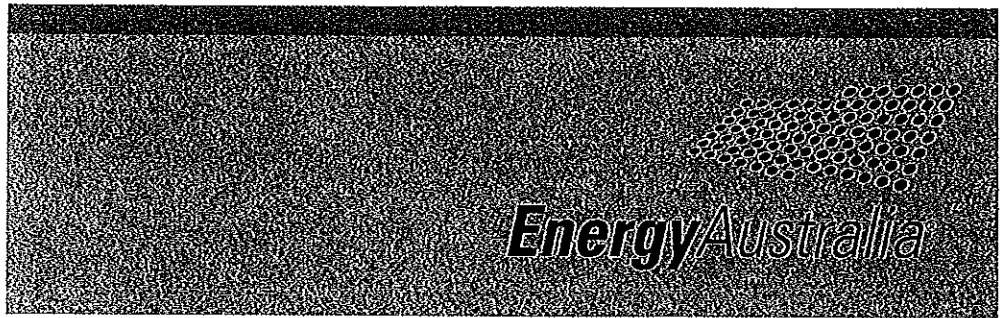
**RICHARD BATH**  
**Acting Head Planning Unit - Hunter**  
**Environment Protection and Regulation**

10 SEP 2009

145 Newcastle Road  
Wallsend NSW 2287

Address all mail to  
PO Box 487 Newcastle  
NSW 2300 Australia

Telephone +61 2 13 15 25



11 Sep 2009

Maitland City Council  
PO Box 220  
MAITLAND NSW 2320  
Attention: Claire Tew

|          |                 |
|----------|-----------------|
| DOC No.  |                 |
| REC'D    | 16 SEP 2009 MCC |
| FILE No. |                 |
| REFER    |                 |

Reference: BH/2009 - 939  
Contact: Bradley Halyburton  
Telephone No: (02) 4951 9445  
Fax No: (02) 4951 9459  
Email: bhalyburton@energy.com.au

**Section 62 Consultation – Rezoning 07004 – Lot 1 and 4 DP813858 Mt Harris Drive Maitland Vale**

Dear Claire,

I refer to your letter reference RZ07004 (688103) concerning the draft amendment to the Maitland Local Environmental Plan for the identified land parcels at Mt Harris Drive, Maitland Vale.

EnergyAustralia records indicate that there are no electricity works proposed for the subject sites at present however these records do indicate the existence of EnergyAustralia's electrical infrastructure on Lot 1 DP813858. This existing electrical infrastructure is protected by easements and any intention to relocate these assets will not be at EnergyAustralia's expense.

Based on the electrical network in the immediate area, it would appear that there are no major constraints impacting on the ability of EnergyAustralia to provide electricity to the subject land.

Electricity supply connection will be assessed in accordance with EnergyAustralia's ES10 – *Requirements for Electricity Connections to Developments* at the time of application. The Applicant/Developer will generally be responsible for the electrical reticulation requirements for any proposed subdivision of the subject land.

EnergyAustralia publications mentioned in this letter are available on our website [www.energy.com.au](http://www.energy.com.au) by selecting About Us > Our Network > Guidelines, Standards and Reports > Electricity Supply Standards.

Please do not hesitate to contact me on the telephone number provided to discuss any of these matters.

Yours faithfully,

Bradley Halyburton  
CUSTOMER SUPPLY PLANNING & RELIABILITY - NEWCASTLE  
Distribution Operations & Reliability | EnergyAustralia

All communications to be addressed to:

Head Office  
NSW Rural Fire Service  
Locked Mail Bag 17  
Granville NSW 2142

Head Office  
NSW Rural Fire Service  
15 Carter Street  
Homebush Bay NSW 2127

Telephone: (02) 8741 5555

Facsimile: (02) 8741 5550

e-mail: [development.assessment@rfs.nsw.gov.au](mailto:development.assessment@rfs.nsw.gov.au)



The General Manager  
Maitland City Council  
PO Box 220  
**MAITLAND NSW 2320**

**Attention: Claire Tew**

\* 688129

SCANNED

|                |                 |
|----------------|-----------------|
| DOC No.        | 695340          |
| REC'D          | 08 SEP 2009 MCC |
| RZ 07/004 CTew |                 |

Your Ref: RZ07004 (688129)

Our Ref: LEP/0081  
HQ09/0749

28 August 2009

Dear Ms Tew,

**Re: Draft Amendment to the Maitland Local Environmental Plan – Rezoning  
07004, 1 & 4//813858, Mt Harris Drive Maitland Vale**

I refer to your letter dated 12 August 2009 seeking our advice in accordance with Section 62 of the *Environmental Planning & Assessment Act 1979* for the above Local Environmental Plan (LEP).

The NSW Rural Fire Service (RFS) notes that parts of the subject area are identified as bush fire prone on the Maitland Bush Fire Prone Land Map. Any future development on land identified as bush fire prone will be required to comply with either section 79BA or section 91 of the *Environmental Planning and Assessment Act 1979* and may require the issue of a bush fire safety authority as per section 100B of the *Rural Fires Act 1997*.

For any enquiries regarding this correspondence, please contact Mark Hawkins.

Yours sincerely

Corey Shackleton  
**Team Leader, Development Assessment and Planning**

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under *Planning for Bush Fire Protection 2006*.



**AUSTRALIAN RAIL TRACK CORPORATION LTD**

Reference 65/710/184

9 September 2009

Attention: Claire Tew  
Maitland City Council  
PO Box 220  
MAITLAND NSW 2320

Dear Claire

**Re: Section 62 Consultation for Rezoning 07004 Lot 1 and Lot 4 DP 813858  
Mt Harris Drive, Maitland Vale**

I refer to your correspondence dated 12 August 2009 in relation to the above. It is noted that rezoning would be consistent with the Maitland Urban Settlement Strategy and that the exact zoning purpose is yet to be determined. It is further acknowledged that Council may consider rezoning the land residential. ARTC would not view residential rezoning as favorable due to noise, vibration and storm water issues associated with a development of this nature in close proximity to the rail corridor.

The noise assessment by Global Acoustics should be updated to give consideration to Clause 87 of State Environmental Planning Policy (Infrastructure) 2007. The assessment should also give consideration to DoP Guideline Development Near Rail Corridors and Busy Roads - Interim Guideline. In addition the preliminary site layout shown in Figure 1 of the Acoustic Assessment is substantially different to the Masterplan presented as Appendix C in the documents provided on CD. The nearest residences based on the Masterplan Layout would be substantially closer to the Great Northern Railway Line than that assumed in the Acoustic Assessment.

In considering rezoning ARTC request that storm water be managed without affect on the rail corridor and that Council note that ARTC may require a 1.8m high chain wire fence in any future site development.

It is noted that access to the site will be from Maitland Vale road across a road overbridge to Mt Harris Drive. It should be noted that the overbridge is an asset owned and maintained by Rail Infrastructure Corporation (RIC). Council may wish to consult with RIC in relation to the proposed rezoning in consideration of a potential to increase traffic on the road bridge.

Further it should be noted that whilst there are no immediate plans to build a rail loop, passing lane or duplicate track in this area, rezoning of the land should consider that capital works of this nature may occur at any time to meet future rail operation requirements.

Should you have any queries in relation to the above please do not hesitate to contact the undersigned on **02 4941 9629 or 0439 464 913**.

Yours faithfully

A handwritten signature in black ink, appearing to read 'VWebster', is written over a horizontal line.

Vicki Webster  
Assistant Property Manager

**AUSTRALIAN RAIL TRACK CORPORATION LTD ABN: 75 081 455 754  
5/33 Newton Street, Broadmeadow NSW 2292, Locked Bag 1, Broadmeadow  
NSW 2292**

**Ph: (02) 4941 9629 Fax: (02) 4941 9738**



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| REC'D 31 AUG 2009 MCC |

The General Manager  
Maitland City Council  
DX21613  
MAITLAND

**Attention: Ms Claire Tew**

**REZONING AT LOT 1 & 4 DP 813858 MT HARRIS DRIVE, MAITLAND**

Dear Ms Tew,

I refer to your letter dated 12 August 2009 (Your reference: RZ07004) regarding the subject draft Local Environment Plan (LEP) amendment referred to the Roads and Traffic Authority (RTA) for comment.

The RTA will not object to the proposed LEP amendment, subject to satisfactory road infrastructure arrangements being made. It is considered that Council can progress this proposal for inclusion in the Maitland LEP as an amendment.

Noting the above, the RTA still requires the developer to resolve State road infrastructure issues consistent with Clause 55 "Arrangements for designated State public infrastructure" of the LEP. It is expected that this rezoning proposal is included within the LEP and be subject to these clauses.

In this regard the RTA will require the developer to enter into a Voluntary Planning Agreement (VPA)/Deed Containing Agreement (DCA) for contributions towards designated State public infrastructure (State Roads) prior to any development/subdivision proceeding on the site. Until such an agreement is executed, satisfactory arrangements consistent with Clause 55 have not been established for State public infrastructure.

To avoid future delays in the development of the proposed land, it is suggested that Council advise the developer to commence negotiations with the RTA for the agreement.

Notwithstanding the above, Council should consider the following prior to approving the proposal:

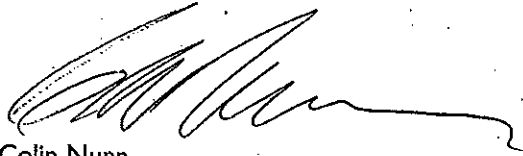
- The developer should take into account DIPNR's *Integrating Land Use and Transport Planning Policy* and *draft SEPP 66 – Integration of Land use and Transport* in relation to the provision of adequate access to public transport, especially for the elderly and opportunities for pedestrians and cyclists connections to the surrounding area should be considered.
- Council should ensure that the developer is aware of the potential for road traffic noise to impact on the future development of the site. In this regard, the developer, not the RTA, is responsible for providing noise attenuation measures in accordance with the Environmental Protection Authority's (1999) *Environmental Criteria for Road Traffic Noise*, should the developer or subsequent individual land owner seek assistance at a later date.

The above matters need to be resolved prior to any development or subdivision on the subject land. In this regard the above should be considered as the general minimum requirements that need to be addressed with the RTA prior to satisfactory arrangements being agreed.



If you require further advice or information please contact Angela Malloch on 4924 0616.

Yours sincerely

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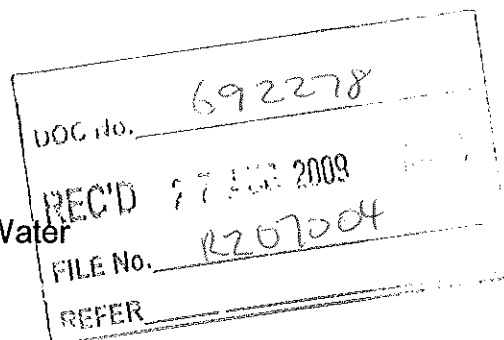
Colin Nunn  
Manager, Infrastructure Development  
Hunter Operations and Engineering Services

27 August 2009



NSW Government

Department of Environment, Climate Change and Water  
Office of Water



General Manager  
Maitland City Council  
PO Box 220  
MAITLAND NSW 2320

**SCANNED**

Contact: Jeff Hunt  
Phone: (02) 49042634  
Fax: (02) 49042501  
Email: jeff.hunt@dnr.nsw.gov.au

Your Ref: RZ0704 (688063)  
Our Ref: ER 20744

**Attention: Claire Tew**

25 August 2009

Dear Ms Tew

**SECTION 62 CONSULTATION  
DRAFT MAITLAND LEP AMENDMENT – HARRIS DRIVE, MAITLAND VALE**

I refer to Council's letter of 12 August 2009 – forwarded to the Department of Water & Energy (DWE) - concerning the above Council LEP amendment.

Please note, DWE has recently been abolished and the Department's water related functions have been merged with DECC to form the new Department of Environment, Climate Change and Water (Office of Water).

The proposal has been initially reviewed and the NSW Office of Water (NOW) provides the following comments on water related issues. These issues are considered relevant for consideration during the preparation of any LES, concept plans for this site and subsequent draft LEP.

**Relevant legislation**

In assessing development proposals and zoning options for the site, Council should take into account the objectives and regulatory requirements of the following legislation, if applicable:

- *Water Act, 1912 (WA)*
- *Water Management Act 2000 (WMA)*

**Water Sharing Plans**

Gazetted Water Sharing Plans (WSPs) prepared under the provisions of the WMA establish rules for access to, and the sharing of water between the environmental needs of the surface or groundwater source and water users. If any proposal is within a gazetted WSP area the assessment is required to demonstrate consistency with the rules of the WSP. For information refer to: <http://www.dnr.nsw.gov.au/water/plans.shtml>

**Relevant policies**

Any assessment is required to take into account the following policies that may be relevant:

- NSW Groundwater Policy Framework Document - General
- NSW Groundwater Quantity Management Policy
- NSW Groundwater Quality Protection Policy
- NSW Groundwater Dependent Ecosystem Policy
- NSW State Rivers and Estuaries Policy

NOW also requires that all structural works, including works for stormwater capture and treatment, are located outside any riparian buffer. However, existing farm dams may be able to be integrated into the design provided stability and flow criteria can be satisfied.

Where the specific zoning of riparian buffers is not feasible, the protection and management of riparian corridors needs to be addressed at the DA stage via appropriate DCP provisions.

It is noted that Section 3.9 of the SEE states that the proposal will not be integrated development under the WA or WMA, as no water will be pumped and no development will occur within 40 metres of a prescribed stream. This is not necessarily correct.

Although no development is planned within 40 metres of the Hunter River, the minor drainage lines within the site are most likely "rivers" under the WMA, and may therefore require a Controlled Activities Approval under the WMA. Further, any proposal to extract water or intercept any groundwater resource within the site will require a Water Act approval.

### **Sustainable water supply**

Any assessment must address the issue of provision of a sustainable water supply for any proposed development, with minimal reliance on accessing valuable surface and groundwater resources. Through the implementation of BASIX, Integrated Water Cycle Management, and Water Sensitive Urban Design, proposed development must also be able to exhibit high water use efficiency.

### **Basic landholder rights**

NOW has a statutory role in administering the relevant water legislation. The WMA identifies Basic Landholder Rights (BLRs) for access to water whereby landholders over an aquifer, or with river or lake frontage, can access water for domestic (household) purposes or to water stock, without the need for a water access licence (although a works approval may still be required for bore construction). This has the potential to impact inequitably on existing water users (including the environment) in the case where riparian frontage continues to be subdivided, creating new basic rights for water extraction. Any environmental assessment should therefore identify any potential for creation of new BLRs along the frontage to the Hunter River within the site, and the draft LEP should contain local provisions that minimise the proliferation of BLRs.

### **Farm dams**

There are a number of existing farm/water supply dams within the proposed site, and it is noted that proposed lot boundaries intersect some dams. It is therefore critical prior to any rezoning that the current legal status and intended use of these dams, under the WA and/or the WMA, needs to be determined - as the legal status of these structures will most likely be affected by any subsequent subdivision or development. For details about the Farm Dams Assessment Guide and information on Harvestable Rights and calculation of the Maximum Harvestable Right Dam Capacity, see

[http://www.naturalresources.nsw.gov.au/water/farm\\_dams/index.shtml](http://www.naturalresources.nsw.gov.au/water/farm_dams/index.shtml)

NOW would be pleased to provide more detailed comment once an LES has been completed, and a draft LEP is available for comment.

Yours sincerely



Jeff Hunt  
Senior Planning & Assessment Co-ordinator

SCANNED

In reply please send to: Newcastle District Office  
Our reference: PA.VS  
Your reference: RZ07004 (688135) *rel doc*  
Contact: Phil Alexander (02) 4908 4352

General Manager  
Maitland City Council  
PO Box 220  
MAITLAND NSW 2320

ATTENTION: CLAIRE TEW

17 August 2009

Dear Sir/Madam

ENQUIRY NO: TENQ09-04154N1  
LOTS 1 AND 4 DP 813858 MOUNT HARRIS DR MAITLAND VALE

This property is not within a proclaimed Mine Subsidence District and is not subject to any building restrictions imposed by the Mine Subsidence Board.

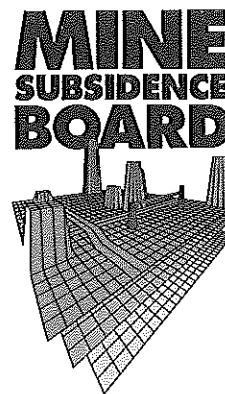
The provisions of the Mine Subsidence Compensation Act cover any improvement erected on this land.

Yours faithfully



Phil Alexander  
District Manager

|          |             |     |
|----------|-------------|-----|
| DOC No.  | 690377      |     |
| REC'D    | 20 AUG 2009 | MCC |
| FILE No. | RZ07/004    |     |
| REFER    | C TEW       |     |



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**WYONG**

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Free Call 1800 248 083

M 10 (Auto) Nov 2001

**Kylie Phillips**

---

**From:** Bush, Eddie J [Edward.J.Bush@team.telstra.com]  
**Sent:** Tuesday, 18 August 2009 3:28 PM  
**To:** Internet  
**Cc:** Urquhart, Tony  
**Subject:** Att Claire Tew - your ref:- RZ07-004 (688122)

Claire

Telstra has no objections.

Thanks

**Eddie Bush** - (Health & Safety Rep)

Access Network Planning Specialist - NSW Country North -  
NSW Forecasting & Area Planning - Integrated Network Planning -  
Telstra Networks & Service

☎ (02) 4924 9475

☎ (02) 4985 8426

Email: [Edward.J.Bush@team.telstra.com](mailto:Edward.J.Bush@team.telstra.com)

Integrated Network Planning - "Transforming vision into network reality".



Hunter Water Corporation  
430/78 222 513 446  
Customer Enquiries 1800 607 607  
enquiries@hunterwater.com.au

PO Box 5171  
HRMC NSW 2310  
30 Honeysuckle Drive  
NEWCASTLE NSW 2300

24 June 2010

Ref: 2006-1338

The General Manager  
Maitland City Council  
PO Box 220  
Maitland NSW 2320

Att: Claire Tew

Dear Claire

**RE: INDICATIVE REQUIREMENTS FOR PROPOSED DEVELOPMENT**

Hunter Water has previously offered preliminary servicing advice to HDB Town Planning & Design regarding the proposed subdivision of 2 lots into 74 lots at Lots 1 & 4 DP 813858, Mount Harris Road, Bolwarra Heights. I have repeated this advice for your information below, including updated advice regarding wastewater system capacity contained in an email to you dated 21 April 2010.

General information on water and sewer issues relevant to the proposal is included in this correspondence. This information is based on Hunter Water's knowledge of its system performance and other potential development in the area at the present time.

As you will appreciate, there may be significant changes that occur by the time the development proceeds to the lodging of a development application, therefore this preliminary advice is not a commitment by Hunter Water and may be subject to significant change prior to the development proceeding.

When you proceed with a development application you will need to lodge a further application with Hunter Water to then determine the formal requirements that shall apply. Hunter Water will then issue a **Notice of Formal Requirements**. You will need to comply with each of the requirements in this Notice for the issue of a Section 50 Compliance Certificate for the specific development.

In this instance, Hunter Water's preliminary advice is as follows:

- 1 Construct **Major Works**, (refer to page 7 of the attached guide) on behalf of Hunter Water, to connect each of the lots to the existing water and sewer system(s) of Hunter Water.

A Major Works assessment/administration fee should be paid when designs are submitted. Please refer to the attached schedule of rates.

**Water Supply**

Hunter Water has undertaken preliminary assessment of the servicing requirements for your development. The nominal water connection point for your development is the 200mm watermain in Mount Harris Road, Bolwarra Heights.

There is capacity in the existing water supply network to supply the total loadings of this development, however lots above RL 51m will need to be supplied by a boosted water system. Please note, that Hunter Water has planned upgrades and augmentations, including a new Bolwarra Reservoir, that may provide additional pressure, however these works are currently planned for 2022 in the forward capital works program.

Consequently, for development of lots above RL 51m a developer funded local water servicing strategy is to be prepared to determine the servicing requirements for these elevated lots.

It is not necessary to provide a developer funded water servicing strategy for the development of Lots below RL 51. However, a watermain sizing concept plan is to be provided for ultimate development.

The developer funded local water servicing strategy is to be prepared by an Accredited Design Consultant in accordance with the attached *Guidelines for the Preparation of Strategy Studies*. The water system is then to be designed and constructed in accordance with the approved strategy.

The strategy should confirm Hunter Water's modelling and provide options in accordance with Hunter Water's requirements for boosted water supply systems.

The water servicing strategy should include other potential development sites in the vicinity. It is recommended that the strategy study area is confirmed with Hunter Water prior to commencement of detailed investigation. Please ensure that the servicing strategy also addresses:

- optimal infrastructure arrangements to service the development area;
- proposed staging and timing of development;
- design of the High Level System and location of zone valves;
- security of supply; and
- minimising dead ends and duplicate watermains in streets (high level system / low level system watermains).

Please contact Hunter Water if you wish to discuss in detail the water supply and servicing issues for your development.

A strategy review fee should be paid when the strategy is submitted. Please refer to the attached schedule of rates.

#### **Wastewater Transportation**

The proposed development site is included in Hunter Water's Regional Servicing Strategy for the area ('*Farley WWTW Wastewater Transportation System Servicing Strategy (2006)*'). Two possible servicing options were considered for the development site, however both of these options rely on proposed and constructed infrastructure associated with a number of other adjacent developments. Plans of the two options are attached for information only.

The nominal wastewater point of connection for the development is the Bolwarra No. 1A Wastewater Pumping Station (WWPS) catchment. Previously, it was mentioned that there is no spare capacity within the Bolwarra No.1A Wastewater Pumping Station (WWPS), however, subsequent investigation indicates that this is incorrect. The station

was constructed with a capacity of 202 L/s, and the current theoretical peak flows are approximately 179 L/s. While this capacity will be given on a first-in, first-served basis, there is currently sufficient capacity for this development.

A future upgrade of this station is also planned, which is currently planned for 2016/17. Note however that this timing is subject to change depending on demand requirements and competing priorities within Hunter Water's Forward capital Program.

Hunter Water requires that a developer funded local wastewater servicing strategy be prepared to determine the servicing requirements for this development. This requirement is largely due to the topography of the site which will not allow the area to drain via gravity into the Bolwarra 1A WWPS catchment. The site was identified in Hunter Water's Regional Servicing Strategy, however, this did not identify the lead-in strategy to service the site. Attached is an excerpt from Hunter Water's GIS system showing the development site and the location of Bolwarra 1A WWPS.

The strategy is to be prepared by an Accredited Design Consultant in accordance with the attached *Guidelines for the Preparation of Strategy Studies*. The wastewater system is then to be designed and constructed in accordance with the approved strategy. The strategy should include other potential development sites in the vicinity. It is recommended that the strategy study area is confirmed with Hunter Water prior to commencement of detailed investigation. The strategy should address, but not be limited to, the following matters:

- The loading and staging of proposed developments;
- Identify sub-catchments and their servicing requirements;
- The draft reticulation layouts for the proposed wastewater transportation system, including proposed pump station(s), rising main and gravity main sizes. This is with the objective of confirming connectivity between subsystems.
- Capital, operating costs and NPV analysis for all options considered in the strategy.
- Downstream system upgrades and staging for upgrades. Dependent on the final connection arrangement, Hunter Water may be required to supply to you details of our existing infrastructure to assist in understanding system constraints.

Please contact Hunter Water if you wish to discuss in detail the wastewater supply and servicing issues for your development. A strategy review fee (currently \$606.00 per asset class) should be paid when the strategy is submitted.

- 2 Depending on the system connection points, a reimbursement payment towards the cost of water and wastewater infrastructure constructed by third party developers may be payable. Reimbursements will be determined when water and sewer design strategies are assessed and approved and will also be reviewed in the context of commercial cost sharing arrangements.

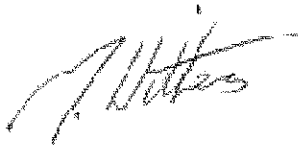
Construction costs, when available, will be used as the basis for the final calculation of reimbursements.

- 3 It may be necessary to enter a third party property for the purpose of survey, design and construction. It is the responsibility of the developer to arrange for entry with the affected landowner(s) and have evidence of consent by way of a signed Entry Permit(s). The Permit(s) is to be submitted prior to release of the signed contract;

- 4 Prior to providing final approval of designs, Hunter Water will require a Review of Environmental Factors (REF) to be submitted (refer Section 1 of Hunter Water's Water and Sewer Design Manual). A REF considers the likely impacts a development may have on the environment. At all times, methods for preventing or reducing adverse environmental impacts should be considered and where appropriate, incorporated into the project design. Hunter Water, where appropriate, may make a determination in accordance with the EP&A Act 1979.

Should you require any additional information, please do not hesitate to contact Barry Calderwood on 4979 9721 or email: [barry.calderwood@hunterwater.com.au](mailto:barry.calderwood@hunterwater.com.au)

Yours faithfully

A handwritten signature in dark ink, appearing to read 'M Withers', is written over a light, textured background.

Malcolm Withers  
Senior Account Executive Major Development

## **Appendix SIX**

### **Extract from Maitland Urban Settlement Strategy 2008 (Mt Harris Investigation Area)**

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### **5.5.11 Mt Harris Investigation Area**

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#### **Physical Description**

This Investigation Area comprises land to the south of Mount Harris and to the west of Bolwarra, as shown in *Figure 24 Mount Harris Investigation Area*. It comprises the lower slopes of Mount Harris beneath the few houses that are located on the visually prominent ridgeline of Mount Harris and adjoins the North Coast Railway, the Hunter River and its floodplain.

The site is physically distinct from the Maitland Vale area to the north due to the existence of Mount Harris and will be considered independently to any longer term investigations that are proposed for the Maitland Vale area.

#### **Existing Development**

The Investigation Area contains existing rural dwellings, which may need to be integrated into any future development. They also adjoin existing dwellings on the ridgeline of Mount Harris and the relationship of future development to these dwellings should be considered.

The proximity of the area to the North Coast railway line is also significant and investigations will need to include an assessment of noise and vibration impacts.

#### **Access**

Although this Investigation Area is located only a short distance from the existing rural residential areas of Bolwarra Heights, the North Coast railway forms a distinct barrier between the two areas. The effect of rail noise, local road standard and intersections should be investigation for this area.

#### **Environmental**

The Investigation Area drains directly into the Hunter River and there are therefore potential implications on water quality as a result of future development. However, opportunities on the site will include the establishment of riparian vegetation, linking with native vegetation on surrounding lands.

The extent of bushfire hazard from adjoining vegetated areas will need to be addressed.

#### **Flood Management**

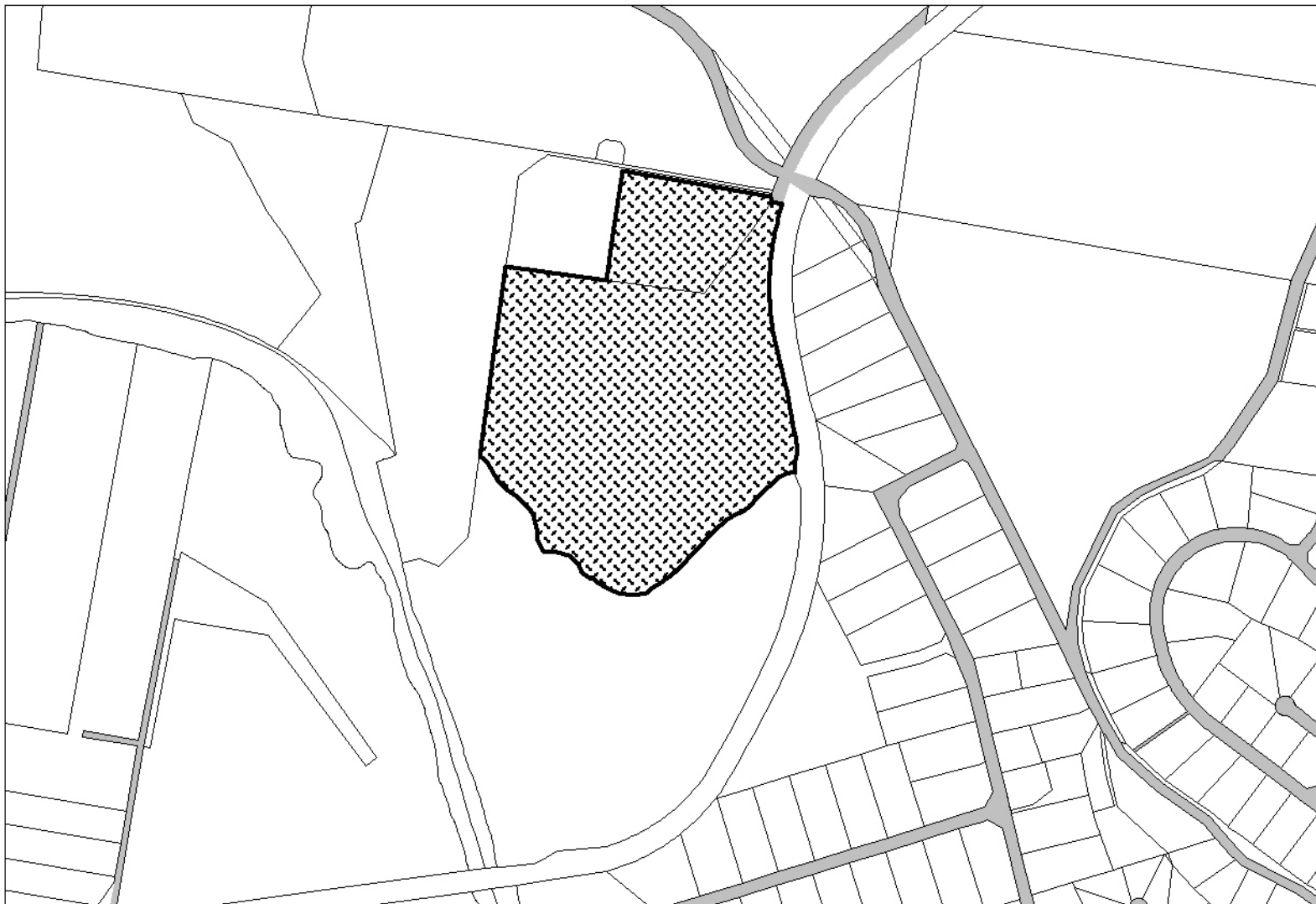
The forecast 1% flood has been considered in the identification of this Investigation Area. However, flooding remains a significant issue to be addressed during investigations for the site.

#### **Infrastructure**

Early investigations suggest that connection to sewer will be possible and the site has been identified on this basis, consistent with Council's preference for rural residential development to be fully serviced, wherever possible.

### **Visual Impact**

The Investigation Area is visible from large parts of the Maitland LGA to the south of Mount Harris and any future development should therefore be carefully designed to ameliorate visual impacts. This will include the identification of a suitable development density, consideration of the potential for the clustering of lots and suitable design guidelines for future development.



## MOUNT HARRIS INVESTIGATION AREA



Scale 1 : 10 000  
Printing Date: November 2008



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This map has been prepared on the basis of information available to Council at the date of issue. However, that information may be subject to change over a limited time and should therefore be verified with Maitland



Preferred Rural Residential

**FIGURE 24**  
URBAN SETTLEMENT STRATEGY  
2008 EDITION