

Maitland LEP 2011 – 46 – 48 Banks Street East Maitland

Proposal Title : **Maitland LEP 2011 – 46 – 48 Banks Street East Maitland**

Proposal Summary : **The planning proposal seeks to allow the expansion of an existing funeral home and mortuary onto an adjoining property under Schedule 1 Additional Permitted Uses.**

PP Number : **PP_2015_MAITL_001_00** Dop File No : **15/08934**

Proposal Details

Date Planning Proposal Received :	22-May-2015	LGA covered :	Maitland
Region :	Hunter	RPA :	Maitland City Council
State Electorate :	MAITLAND	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	46 - 48 Banks St		
Suburb :	East Maitland	City :	Maitland
		Postcode :	2323
Land Parcel :	Lot 1 DP 199405 and Lot 1 DP 716770		

DoP Planning Officer Contact Details

Contact Name : **Paul Maher**
 Contact Number : **0249042719**
 Contact Email : **paul.maher@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Steve Daniels**
 Contact Number : **0249349729**
 Contact Email : **steved@maitland.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.01	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	12

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

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Council considered 3 options in preparing the planning proposal; to rezone the land; or include the funeral home and mortuary land use in the R1 General Residential zone; or include it as an additional use on the subject site.**

It was considered that inserting the land use in Schedule 1 was the most appropriate as it allowed the expansion of the existing operation without undermining the B6 Enterprise Corridor zone nearby or allowing funeral homes across all low density residential areas in the LGA.

Adequacy Assessment

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

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

Comment : **The intention is to enable the expansion of an existing funeral home and mortuary and not to undermine the Melbourne Street local renewal corridor.**

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

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

Comment : **Explanation of provisions**

The explanation of provisions is adequate as it provides the parameters to amend Maitland LEP 2011.

The Planning Proposal seeks to amend Schedule 1 Additional Permitted Uses by inserting;

8. Use of certain land at 46 and 48 Banks Street, East Maitland

(1) This clause applies to Lot 1 DP 199405 and Lot 1 DP 716770 being 46 - 48 Banks Street, East Maitland.

(2) Development for the purpose of a funeral home and mortuary is permitted with consent.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

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

Have inconsistencies with items a), b) and d) being adequately justified?

If No, explain :

S117 DIRECTIONS

1.1 Business and Industrial zones does not apply because it will not affect land in a business or industrial zone.

2.3 Heritage Conservation – the planning proposal is consistent with Direction 2.3 as the land is protected by the Heritage Conservation Area under LEP 2011. Any potential impact on surrounding heritage items will be managed through clause 5.10 Heritage Conservation under LEP 2011.

3.1 - Residential Zones – the planning proposal is inconsistent with Direction 3.1 as it does not include provisions that will encourage the provision of housing as it will facilitate the expansion of a funeral home and mortuary on residential land. The inconsistency is considered to be of minor significance as the land use zone will remain R1 General Residential which will allow residential development should the operation cease. The agreement of the Secretary's delegate to the inconsistency is required.

4.1 Acid Sulfate Soils – although the site contains Class 5 ASS the planning proposal is consistent with Direction 4.1 as it is the least affected class of works requiring development consent. Should the criteria for Class 5 be triggered then Clause 7.1 Acid Sulfate Soils will adequately manage any adverse environmental impacts.

6.1 Site Specific Provisions – the planning proposal is inconsistent with Direction 6.1 as it will allow a particular development to be carried out without changing the zone or amending the land use table. The inconsistency is of minor significance as the land use is an expansion of an existing operation into an adjoining allotment. This approach allows the land to return to a residential use in line with Council's strategic planning for East Maitland. The agreement of the Secretary's delegate to the inconsistency is required.

STATE POLICIES

SEPP 64 Advertising and Signage prohibits advertisements on land that is described as a heritage area and residential. Any signage that may be required as part of the expansion would be considered appropriately under SEPP 64 and Maitland DCP.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : There are no maps required for the planning proposal as it amends the instrument only. However, it is recommended that a locality map be provided for exhibition purposes to clarify the context of the site for the public.

There is no Additional Permitted Uses map in Maitland LEP 2011.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed a 14 day consultation period. This is considered appropriate given the proposal is of a minor nature.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMELINE**

Council's timeline nominates the Planning Proposal's completion within six (6) months after the Gateway Determination. It is considered that a six (6) month completion timeframe is appropriate which require the Planning Proposal to be completed by November 2015.

DELEGATION AUTHORISATION

Council has accepted plan-making delegation for PPs generally. However it has not been specifically requested for this PP. The reason for this is not discussed by Council.

It is recommended that plan-making delegations be given to Council in this instance.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The principal Maitland LEP was gazetted in 2011.

Assessment Criteria

Need for planning proposal : The funeral home and mortuary has a need to expand and make vehicle access more efficient and safer.

The proposed option of including the site in Schedule 1 – Additional Permitted Uses will maintain the integrity of the B6 Enterprise Corridor zone on Melbourne Street but will however encroach on the existing R1 General Residential Zone. The impact of this encroachment can be gauged through consultation with adjoining and surrounding residential property owners during public exhibition.

Should the funeral home cease to operate, the land use of the site would be able to revert

back to land uses permitted in the R1 zone.

A planning proposal is considered the most effective and timely method available to reclassify and rezone the land and achieve the objectives of the proposal.

Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY 2006 (LHRS)

The PP will allow the existing funeral home and mortuary to expand making the operation more sustainable and more equipped to maintain jobs. Therefore, the proposal is considered consistent with the Regional Strategy as it strengthens jobs in the tertiary sector within one of the Region's major centres.

MAITLAND CENTRES STRATEGY 2009 (MCS)

Melbourne Street local renewal corridor is located two blocks West of Banks Street and therefore the site is within the commercial catchment of the corridor but is not in the corridor itself. To zone the subject site as a Business zone would be inconsistent with MCS.

The existing operation is however within the New England Highway corridor NEHC. The intention is for the NEHC to operate as a high order transport corridor and to limit strip development to reduce traffic conflicts. The existing funeral home has been operating on the site since 1989 and does not therefore represent an increase in strip development. The proposed expansion onto the adjoining property on Banks Street will improve safe egress from the site onto the NEH and reduce traffic conflicts inherent in the existing operation.

Environmental social economic impacts :

ENVIRONMENTAL

The site is cleared of native vegetation and has no potential for adverse impact on critical habitat. Mortuaries are not considered a hazardous or offensive industry under SEPP 33 Hazardous and Offensive Development.

The Public Health Act 1991 and Public Health (Disposal of Bodies) Regulation 2002 regulates the handling of bodies both by funeral industry professionals and by members of the public. The regulation expresses rules rather than explaining how the deceased are to be disposed.

The regulations controls among other aspects; premises and facilities for handling bodies, waste disposal, handling of bodies including embalming, viewing, the use of body bags and storage of bodies.

HERITAGE

The site is located in the Heritage Conservation Area (HCA) and Maitland LEP 2011 identifies 8 local heritage items near the subject site. Any potential adverse impacts on the immediate precinct or the HCA as a result of a future development application can be managed through clause 5.10 Heritage conservation.

TRAFFIC

No. 46 Banks Street has local street frontage and a battle axe handle allowing access onto the New England Highway (NEH) behind 48 Banks Street. Supporting expansion of the funeral home and mortuary will allow vehicles to exit in a forward direction onto the Highway. It is recommended that the Planning Proposal be referred to Roads and Maritime Services for comment on potential impacts on the NEH.

SOCIAL

The expansion of a well-established funeral business will provide a continued service to the community. There are potential adverse impacts on adjoining residential property owners who require the opportunity to comment on the prospect of the funeral home operation encroaching on residential amenity albeit an established operation.

ECONOMIC

The PP will allow the existing funeral home and mortuary to expand and may lead to increasing employment.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
letter and PP.pdf	Proposal	Yes
Maitland Council report.pdf	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
2.3 Heritage Conservation
3.4 Integrating Land Use and Transport
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions
7.1 Implementation of A Plan for Growing Sydney

Additional Information : **1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**

(a) the planning proposal is classified as low impact as described in A Guide to

Preparing LEPs (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Planning & Infrastructure 2013).

2. Consultation is required with the Roads and Maritime Services under section 56(2)(d) of the EP&A Act. Roads and Maritime Services is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

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

5. Provide a locality map identifying the site for public exhibition.

Supporting Reasons :

Supporting reasons

1. The PP will enable an established business to expand and to continue to provide employment and services to the community.

Signature:

Ben Holmes

Printed Name:

BEN HOLMES

Date:

11 / 6 / 2015

