



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

Our ref: PP_2017_MAITL_003_00 (17/05674)

Dear Mr Evans

**Planning Proposal to amend Maitland Local Environmental Plan 2011 –
Part Lot 141 DP 1225076 near Mount Vincent Road, East Maitland**

I am writing in response to your Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act), and additional information received on 23 June 2017, in respect of the planning proposal that seeks to rezone part of Lot 141 DP1225076 near Mount Vincent Road in East Maitland for general residential purposes.

As delegate of the Minister for Planning, I have now determined the proposal should proceed, subject to the conditions in the attached Gateway determination.

I have agreed, as delegate of the Secretary, the planning proposal's inconsistencies with Section 117 Directions 1.2 Rural zones, 1.5 Rural Lands, 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Direction. Council may still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. I have decided to not issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 8 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries regarding this matter, I have arranged for Mr Ben Holmes of the Department's regional office to assist you. Mr Holmes can be contacted on (02) 4904 2709.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Monica Gibson', written in a cursive style.

1/9/2017

Monica Gibson
Director Regions, Hunter
Planning Services

Encl:
Gateway Determination

Gateway Determination

Planning Proposal (Department Ref: PP_2017_MAITL_003_00): to rezone part of Lot 141 DP 1225076 near Mount Vincent Road in East Maitland for general residential purposes.

I, the Director Regions, Hunter at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Maitland Local Environmental Plan (LEP) 2011 to rezone part of Lot 141 DP1225076 near Mount Vincent Road in East Maitland for general residential should proceed subject to the following conditions:

1. Prior to undertaking community consultation, the Planning Proposal is to be revised to seek to apply a zone/s and associated development standards to achieve a balance of residential yield and biodiversity conservation, responsive to the features of the site and impacts associated with the Waste Disposal Management Facility, for all of Lot 141 DP 1225076.

The Planning Proposal is to confirm what attributes have been used as criteria for applying the proposed zone/s and associated development standards. This should be determined in consultation with the Department of Planning and Environment and should address the following matters:

- Avoid impacts on native vegetation;
- No residential development on flood prone land;
- Density of residential development to consider mine subsidence risk, mitigation of visual impacts and existing lot sizes in the surrounding locality;
- Avoid impacts to or from the Waste Disposal Management Facility

The following studies need to be updated to support the Planning Proposal:

- Visual impact assessment
- Bushfire threat assessment
- Traffic and access study
- Biodiversity impact study
- Aboriginal cultural heritage and archaeological impact study
- Geotechnical (mine subsidence and contamination) study

The project timeline, draft LEP maps and the property description should also be updated.

The amended Planning Proposal and any supporting maps and studies are to be referred to the Department for endorsement prior to the commencement of community consultation.

2. Council is to update the planning proposal to demonstrate consistency with section 117 Directions and State Environmental Planning Policy (SEPP) after additional investigation have been completed and/or following agency consultation:
 - 1.3 Mining, Petroleum and Extractive Industries
 - 2.1 Environmental Protection Zones
 - 2.3 Heritage Conservation
 - 3.1 Residential zones
 - 3.4 Integrating Land Use and Transport
 - 4.2 Mine Subsidence and Unstable Land
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.10 Implementation of Regional Plans
 - State Environmental Planning Policy (SEPP) 55 – Remediation of Land
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the Planning Proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in *section 5.5.2 of A Guide to preparing local environmental plans (Department of Planning and Environment 2016)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service
 - Subsidence Advisory NSW (formerly Mine Subsidence Board)
 - Office of Environment and Heritage
 - Environmental Protection Authority
 - Mindaribba Local Aboriginal Land Council
 - Wonnarua Nation Aboriginal Corporation
 - Hunter Water
 - Ausgrid

Each public authority 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.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

7. The final LEP maps shall be prepared in accordance with the requirements of the Department's "Standard Technical Requirements for Spatial Datasets and Maps" Vers: 1.0 November 2015.

Dated 1st day of September 2017

A handwritten signature in black ink, appearing to read "Monica Gibson". The signature is fluid and cursive, with a large initial 'M' and 'G'.

Monica Gibson
Director Regions, Hunter
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning