

Appendix SEVEN

Correspondence from Dept of Environment, Climate Change and Water

Our reference: DOC09/60497, DOC09/68887, DOC09/47652 - FIL09/922-06
Contact: Lucas Grenadier, 92 4908 6820

DOC No.	
REC'D 24 DEC 2009	MCC
FILE No.	
REFER	M Gibson

Mr Christopher Bean
County Property Group
PO Box 116
AVALON BEACH NSW 2107

COPY

Dear Mr Bean

**RE: THORNTON NORTH STAGE 2 DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) -
BIODIVERSITY ISSUES**

I refer to your letter dated 18 December 2009 requesting comments from the Department of Environment, Climate Change and Water (DECCW) in relation to outstanding biodiversity issues on the above mentioned site.

The Stage 2 precinct is included within the Thornton North Structure Plan and the Lower Hunter Regional Strategy, and therefore DECCW supports the rezoning in principle. However, we consider that the proposed zoning plan is unlikely to achieve an "improve or maintain" outcome for biodiversity values.

Whilst it is acknowledged that some impacts on biodiversity value have been avoided through on-site retention of remnant vegetation and riparian corridors within the proposed zoning plan, further biodiversity offset or mitigation measures would be required to achieve an "improve or maintain" outcome for biodiversity values.

The overarching goal for conservation in NSW is that biodiversity and other environmental values of soil, water quality and salinity, must be 'improved or maintained'. This means that the gains for biodiversity must be greater than or equal to any losses resulting from clearing or other forms of degradation of biodiversity values. This goal is also reflected within the NSW State Plan, the relevant provisions of the *Threatened Species Conservation Act 1995*, *Native Vegetation Act 2003*, and the Lower Hunter Regional Conservation Plan 2009 (LHRCP).

The LHRCP sets out the manner in which improvement or maintenance of biodiversity values can be achieved, including through adequate consideration of the "principles for the use of biodiversity offsets in NSW".

For further information in this regard please refer to the Lower Hunter Regional Conservation Plan: <http://www.environment.nsw.gov.au/resources/protectedareas/09203Lhrcp.pdf#undefined>.

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

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Department of Environment and climate change

Impacts on Threatened Species

Based on an initial assessment of ecological data and proposed zoning plan (dated 17 December 2009), DECCW considers that the proposed LEP has the potential to significantly impact on threatened species and endangered ecological communities (EECs). In particular, DECCW is concerned that the proposal has the potential to result in the loss of a viable local population of the Squirrel Glider, and the removal of approximately 88 hectares of Lower Hunter Spotted Gum – Ironbark Forest EEC.

If resolution of outstanding biodiversity issues is dealt with post-gazettal of the LEP (see below), it should be noted that DECCW only has a statutory role in assessing a development application, if the consent authority (Maitland City Council) determines that the development is likely to significantly affect a threatened species, population, or ecological community, or its habitat. If Council determines a significant impact is likely, then pursuant to Section 79B of the *Environmental Planning and Assessment Act 1979* (EP&A Act) Council must seek the concurrence of the Director General of National Parks and Wildlife. Under this scenario DECCW will have a concurrence role, which will include the likely provision of Director General Requirements for a Species Impact Statement (SIS) and assessment of the SIS.

Resolution of Biodiversity Issues at the Development Application Stage

DECCW's preference is to deal with all matters of significance at the rezoning stage with the intent of simplifying and streamlining any subsequent development application process. However, as referred to in your letter of 18 December 2009, negotiating a collective biodiversity offset package that achieves an improve or maintain outcome between multiple landholders within the LEP area has not been possible to date.

Therefore in this instance, DECCW considers that outstanding biodiversity offsetting matters could be dealt with post gazettal of the LEP through subsequent development applications under Part 4 of the EP&A Act.

Two alternative approaches could be undertaken at the development application stage to achieve an improve or maintain outcome for biodiversity values:

- (a) Formal use of the NSW Government's Biodiversity Banking and Offset Scheme (BioBanking) at the development application stage. BioBanking provides a systematic and consistent framework for counterbalancing (offsetting) the impacts of development to achieve an 'improve or maintain' outcome for biodiversity values. Further information is available at: www.environment.nsw.gov.au/biobanking/index.htm.

An additional benefit of formal use of BioBanking, noting the potential for significant impacts on threatened species, is that it removes the need for threatened species assessments (assessment of significance) under Part 5A of the EP&A Act.

- (b) Provision of an additional biodiversity offset package, containing off-site conservation measures as such dedication of land into the National Park estate or an alternative conservation mechanism which protects and manages land in perpetuity, such as a Voluntary Conservation Agreement.

As noted in the Ecological Assessment Report (RPS-HSO, September 2009) the following threatened species / communities should form the core components of any offset package:

- Lower Hunter Spotted Gum-Ironbark Forest EEC
- Little Lorikeet
- Swift Parrot
- Grey-crowned Babbler
- Squirrel Glider

- Grey-headed Flying-fox
- Various micro-bats.

Additional On-site Conservation Measures

A number of additional on-site measures could be implemented to minimise potential impacts on biodiversity, including both at the rezoning and development application stage. This includes further modifications to the zoning plan (based on ecological advice) to broaden and improve connectivity of riparian / wildlife corridors and protected remnant vegetation areas (proposed 7(c) zone). This would strengthen the functionality / viability of proposed corridors and habitat areas for threatened species through the development precincts. Additional revegetation programs should also be undertaken to enhance existing vegetation and/or partially cleared areas.

DECCW also requests that any conservation areas within the Stage 2 precinct are protected and managed in perpetuity. It should also be noted that on site conservation areas (proposed 7(c) zone) should not be impacted or burdened with additional requirements for infrastructure such as roads, sewage or stormwater.

If you have any enquiries concerning this advice, please contact Lucas Grenadier, Conservation Planning Officer, on 4908 6820.

Yours sincerely

Lucas Grenadier 22.12.09

LUCAS GRENADIER
Acting Head Planning Unit - Hunter
Environment Protection and Regulation

cc: Monica Gibson, Maitland City Council

Appendix EIGHT

Conservation zoning

Appendix NINE

Public authority correspondence



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

General Manager
Maitland City Council
PO Box 220
MAITLAND NSW 2320

Our ref: L02/0386
Your ref: 103/132 (575711)

Attention: Mark Roser

Dear Sir,

**Section 62 Consultation – Draft Amendment to Maitland LEP 1993
Thornton North (Chisholm) Stage 2**

Thank you for your letter of 25 February 2008 seeking advice from the Department of Primary Industries on issues that need to be considered in the preparation of above proposed amendment to Maitland LEP 1993.

This is a coordinated response incorporating advice from the Department's Mineral Resources and Fisheries divisions. Comments from the Agriculture division will be forwarded shortly. The proposed amendment is not relevant to the interests of Forests NSW.

Mineral Resources Issues

The Thornton North Release Area incorporates part of the Clay Conservation Area defined in Maitland City Council's development Control Plan (DCP 28) and also identified in advice provided to Council by DPI in response to Section 117 (2) Direction No 1.3. This area includes two existing clay extraction sites operated by PGH – O'Briens Quarry (Lot 1 DP 797295) and the Housing Commission quarry – that supply the PGH brickmaking plant at Melford. The O'Briens quarry which is located within the Mulbring Siltstone produces dark-firing clay/shale. The Housing Commission quarry is within the Tomago Coal Measures and is a source of light-firing clay and shale.

The Melford brick plant is currently not operating and is on care and maintenance, but may re-open in the future. In this case, continued access to the resources in the existing quarry sites would be required. There may also be other possible markets for the light-firing clay/shale from the Housing Commission site.

The portions of the Clay Conservation Area within the Thornton North area outside the existing quarry sites largely comprise dark-firing Mulbring Siltstone. These areas are no longer considered to have significant potential for future extraction as demand for material of this type is limited and potential sources are widespread. It is therefore not considered to be essential that these areas remain available for future clay mining.

DPI MINERALS

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Mining should however, remain a permissible use within the existing clay quarry sites and appropriate buffer zones should be maintained between the quarry sites and any proposed residential or rural residential development until such time as quarrying ceases. It is recommended that Council consult with PGH concerning the company's plans for the sites and their anticipated life.

Fisheries Issues

A minimum buffer zone of 50 metres width should be established along the natural drainage line.

The proposed development will increase the amount of impervious surface and thus increase run-off following rain events. Stormwater will need to be treated and retained on site before release downstream at a level close to the current regime.

If you have any further queries concerning the draft amendment please contact Iain Paterson, DPI Mineral Resources, on 4931 6704 or ian.paterson@dpi.nsw.gov.au. For enquiries relating specifically to fisheries issues, please contact James Sakker on 4916 3955.

Yours sincerely



Iain Paterson
A/Chief Geoscientist, Land Use



NSW DEPARTMENT OF
PRIMARY INDUSTRIES

16 April 2008

General Manager
Maitland City Council
PO Box 220
Maitland 2322

Our ref: L02/0386
Your ref: 103/132 (575711)

ATTENTION: Mark Roser

Dear Mark,

**Section 62 Consultation - draft amendment to Maitland LEP 1993 -
Thornton North (Chisholm) Stage 2 various parcels**

I refer to your letter of 26 February 2008 seeking the advice of NSW Department of Primary Industries (DPI) on the proposed draft amendment to the Maitland LEP for land at Thornton North (Chisholm). The following comments constitute a response from the NSW DPI Agriculture, comments from the Mineral and Fisheries division were forwarded to Council on 28 March 2008.

DPI (Agriculture) acknowledges that this land is within the area identified for potential future urban purposes previously identified in and consistent with the Lower Hunter Regional Strategy, Maitland Urban Settlement Strategy and Thornton North Structure Plan. Although the final residential zoning determination is still dependent on further investigations by Council.

The area identified by Council falls under Class 3, 4 and 5 agricultural productivity zones commonly used for low-intensity grazing. Some of the area was also used for intensive poultry activities, however NSW DPI notes the cessation of operations and removal of the poultry sheds from the Grey Gum Crescent area will remove the potential for land-use conflict and allow for compatible residential development. The rezoning of these areas is not anticipated to have significant impacts on agricultural resources.

Council is advised to ensure that future subdivision and development patterns provide adequate buffers or other means to avoid conflict with the continued use of adjoining agricultural lands. NSW DPI notes the previous use of the rezoning investigation area as a flood refuge for livestock.

The development of this area will also need to ensure that impacts on adjoining wetlands areas which are important for aquatic habitat and fisheries protection are also avoided. Council is further encouraged to ensure that the residential development of this site does not encourage or seem to justify the further expansion of dispersed residential development in adjoining lands contrary to current strategies.

Yours faithfully

Tony Scherl for
Glenda Briggs
Resource Management Officer, Hunter.

DOC No.

REC'D 21 APR 2008 MCC

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Advisory Office
Total Paterson NSW 2421

ABN 51 734 124 190
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307RZ5;4
08/454
BK

The General Manager
Maitland City Council
DX 21613
MAITLAND



DOC No.	
REC'D	- 3 APR 2008 MCC
FILE No.	
REFER	

Attention: Mr Mark Roser

**SECTION 62 CONSULTATION - DRAFT AMENDMENT TO MAITLAND LEP 1993 -
THORNTON NORTH (CHISHOLM) STAGE 2 VARIOUS PARCELS**

Dear Mr Roser

I refer to your letter dated 25 February 2008 (Your reference: 103/132 (575711)) regarding the subject rezoning application forwarded to the RTA for consideration.

I also refer to our previous correspondence dated 4 April 2007 regarding infrastructure upgrade requirements for the Thornton North Urban Release Area.

The RTA's primary interests are in the road network, traffic and broader transport issues particularly the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Raymond Terrace Road is a classified state road and RTA concurrence is required for connections to the road with Council consent, under section 138 of the Act. RTA consent is required for traffic control signals and facilities under section 87 of the Act. Council is the roads authority for this road and all other public roads in the area.

It is understood the applicants wish to rezone approximately 372 hectares of land from 1(b) Secondary Rural to 2(a) Residential for the purposes of a residential subdivision, as Stage 2 of the Thornton North Urban Release Area.

The RTA has reviewed the information provided and has no objections to the proposed rezoning, subject to the issues raised in my letter dated 4 April 2007 (copy enclosed) being implemented, particularly with regard to any works required on Raymond Terrace Road to provide safe and efficient vehicular access to the properties involved.

On Council's determination of this matter it would be appreciated if a copy of the development consent were forwarded to the RTA for record purposes.

Roads and Traffic Authority



59 Darby Street
Newcastle NSW 2300

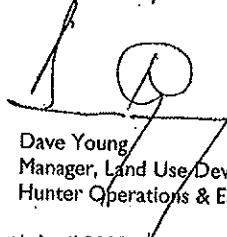
Locked Bag 30 Newcastle NSW 2300
DX 7813 Newcastle

T 02 4924 0240

www.rta.nsw.gov.au

If you require further advice please contact me on (02) 4924 0240.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Dave Young', written over a horizontal line.

Dave Young
Manager, Land Use Development
Hunter Operations & Engineering Services

1 April 2008

307RZ54
07/520, 07/559
Brad Parkes



FILE COPY

The General Manager
Maitland City Council
DX 21613
MAITLAND

Attention: Ms Monica Gibson

SECTION 62 CONSULTATION - DRAFT MAITLAND LOCAL ENVIRONMENTAL PLAN 1993, AMENDMENT FOR THORNTON NORTH URBAN RELEASE AREA

Dear Monica

I refer to your various letters (Your reference: RZ05004) regarding the subject LEP amendment, my earlier correspondence, the advice from the Department of Planning dated 2 April 2007 and the meetings held with Council regarding the Thornton North Urban Release Area.

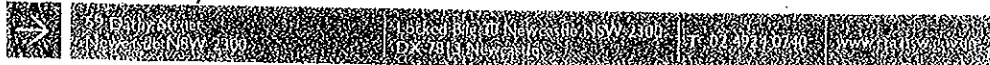
The RTA's primary interests are in the road network, traffic and broader transport issues, particularly in relation to the efficiency and safety of the classified road system, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Raymond Terrace Road (MR 104) is a classified state road and RTA concurrence is required for connections to the road with Council consent, under section 138 of the Act. RTA consent is required for traffic control signals and facilities under section 87 of the Act, and road works under section 61 of the Act. Council is the roads authority for that road and all other roads in the area.

Given the significant impact on the road network from the traffic generated by future development at Thornton North, it is essential that satisfactory arrangements are made for the provision of the required road infrastructure prior to development commencing. The RTA has been advised by the Department of Planning that satisfactory arrangements must be in place for regional transport infrastructure prior to any development being permitted under the LEP amendment. The satisfactory arrangements that the RTA requires are outlined below.

The RTA has reviewed the information provided and is prepared to release its objection to the rezoning proposal for the Thornton North Urban Release Area under section 62 of the *Environmental Planning and Assessment Act, 1979* subject to the following issues being addressed to the satisfaction of the RTA, prior to any development occurring in the release area.

Roads and Traffic Authority



The RTA considers that to provide satisfactory arrangements for Regional Transport Infrastructure, as required under the proposed LEP amendment, two key areas shall be addressed. Of primary concern for the RTA is the contributions towards the Weakleys Drive grade separated interchange works at the New England Highway and the road infrastructure upgrades required along Raymond Terrace Road. In relation to those matters the following applies:

Weakleys Drive – Developer Contribution Deed

- The owners of initial land holdings currently being considered for rezoning in this amendment must enter into a Deed Containing Agreement (DCA) with the RTA for contributions towards the Weakleys Drive grade separated interchange at the New England Highway. The allotments that shall enter into the DCA include:
 - Lots 1, 2 & 3 DP1090329,
 - Lots 1 & 4 DP783438,
 - Lot 51 DP1071282,
 - Lot 4100 DP1058383,
 - Lot 12 DP603613,
 - Lot 14 DP1062707,
 - Lot 20 DP10419,
 - Lot 310 & 311 DP835968,
 - Lot 8881 DP776757,
 - Lot 1 DP851737,
 - Lot 191 DP827070,
 - Lot 1 & 2 DP788219,
 - Lot 1 DP1020387.

All of the above allotments were described as Category 1 land holdings in Council's proposed LEP amendment. The total cost attributable to these lands is \$2.5M, which will be apportioned according to the net developable area of each site, determined by the RTA and Council.

- No development shall be permitted on any of the above sites until the owner of the land has entered into a DCA with the RTA.

Comment: The RTA will advise the Department of Planning and Council when any of the above subject allotments have entered into a DCA.

Raymond Terrace Road

- The RTA has considered its position in relation to Council's intent to fully fund the road infrastructure works required along Raymond Terrace Road through the section 94 Contributions Plan and would agree to this method of collecting contributions subject to Council undertaking the following:
 - RTA's endorsement of the estimate of cost contained within the Plan;
 - Council reviewing the Plan on an annual basis, as previously indicated by Council;
 - Council incorporating the appropriate indexation in the Plan to cover any increase in building and construction costs (i.e. RCI indexation) and scope of works.
- In relation to the road infrastructure works outlined in Council's draft section 94 Plan, the following shall be included:
 - All Raymond Terrace Road intersections contained in the Plan, except for the McFarlanes Road and Forest Drive, shall be constructed as traffic control signals.

- o Raymond Terrace Road shall be duplicated between Government Road (east) and proposed intersection 4 (as per Council's concept plans) opposite Brickworks Road with appropriate transitions to the existing road carriageway.
- o All works shall be subject to review when future development applications are referred to the RTA for concurrence. The scope and scale of road infrastructure works will be generally in accordance with Council's adopted concept plans but may be subject to change under detailed review.
- o All Raymond Terrace Road intersection works shall be undertaken without staging. The ultimate intersections shall be constructed to the ultimate treatment.
- o Council should define the extent of each intersection works in the Plan to avoid having short mid-block sections of Raymond Terrace Road that require separate upgrade works.

All other previous comments provided by the RTA in relation to Council's section 94 Contributions Plan should be considered by Council prior to publicly exhibiting the Plan.

General

- No direct access to individual properties along Raymond Terrace Road shall be permitted. All allotments within the Thornton North urban release area shall have access to the local road network.
- Any road widening required along Raymond Terrace Road shall be dedicated at the applicant's full cost to Council.
- All of the works included in Council's section 94 Contributions Plan on Raymond Terrace Road shall be designed and constructed in accordance with the RTA's *Road Design Guide*, Austroads Guidelines and other relevant standards/guidelines, to RTA and Council requirements, at full cost to the developers.
- The RTA will require that State road infrastructure upgrades and traffic control works be implemented through a Works Authorisation Deed executed between the developer and the RTA.

The RTA also requests that Council advise the applicants of the following issues:

- That *State Environmental Planning Policy (SEPP) No. 11 – Traffic Generating Developments* may apply, and the proposed development shall address any issues accordingly in the master plan and development stage.
- 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 cyclist's connections to the surrounding area should be considered.
- Council should ensure that the applicants are aware of the potential for road traffic noise to impact on the proposed development. In this regard, the applicant, not the RTA, is responsible for providing noise attenuation measures in accordance with the Environmental Protection Authority's Environmental Criteria for Road Traffic Noise, should the applicant seek assistance at a later date.

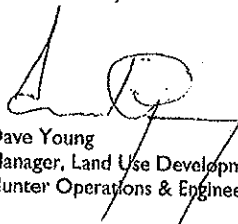
In summary, the RTA is prepared to release its objection under section 62 of the *Environmental Planning and Assessment Act, 1979* subject to:

- a) All the relevant Category 1 landowners entering into a Deed Containing Agreement with the RTA prior to any development approvals being granted on any land within the Thornton North Urban Release Area.
- b) Council seeking contributions from all landowners / developers within the Thornton North Urban Release Area through its section 94 contribution plan to fully fund the required road works and associated infrastructure on Raymond Terrace Road, at no cost to the RTA or Council.

It is expected that continued consultation occur in relation to Council's section 94 Contributions Plan for Thornton North and that no development occurs within the Thornton North urban release area until the land owners enter into DCAs with the RTA for contributions towards the Weakleys Drive Interchange.

Please contact me on (02) 4924 0688 if you require further advice or assistance.

Yours sincerely



Dave Young
Manager, Land Use Development
Hunter Operations & Engineering Services

4 April 2007

Cc: Mr Steve Brown
Department of Planning



Mindaribba Local Aboriginal Land Council

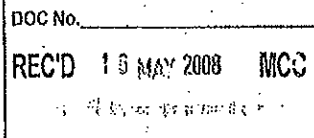
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A.B.N 8282 6020 881

Mark Rosen
Strategic Town Planner
Maitland City Council
High Street
Maitland NSW 2320



Re: Section 62 Consultation - Draft Amendment to Maitland LEP 1993 - Thornton
North (Chisholm) Stage 2 various parcels

Dear Mark,

Thank you for the information regarding the above project and other proposed amendments.

I will deal with the Industrial Area in the first instance.

Maitland City Council are the consent authority, who approve the rezoning and whatever Mindaribba Local Aboriginal Land Council says won't be given serious consideration, however, we make our comments and hope that our view will be given some consideration.

Mindaribba don't object to the rezoning of those areas however we hope that prior to any consent or approvals these areas are subject to a thorough Archaeological investigations and assessments by suitably qualified person. We would require copies of all other relevant studies undertaken by consultants prior to approvals being granted for development by Maitland City Council after the area is rezoned.

Should you wish to discuss this letter please phone me on the number provided.

Yours sincerely

Rick Griffiths
C.E.O.
M.L.A.L.C
15.5.08



NSW Government

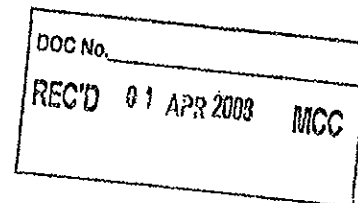
DEPARTMENT OF WATER AND ENERGY

Your Ref: 103/132 (676711)
Our Ref: ER4359D

28 March 2008

General Manager
Maitland City Council
PO Box 220
MAITLAND NSW 2320

Attention: Mark Roser



Dear Sir

**SECTION 62 CONSULTATION
DRAFT AMENDMENT TO MAITLAND LEP 1993
THORNTON NORTH (CHISHOLM) STAGE 2**

I refer to Council's letter of 25 February 2008 concerning the above proposal, and apologise for the delay in responding.

The proposal has been initially considered and the following DWE water related issues are considered relevant for consideration during the preparation of the LES, any 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)*
- *Hunter Water (Special Areas) Regulation 2003*

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
- NSW Sand and Gravel Extraction Policy for Non-Tidal Rivers

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NSW Government

DEPARTMENT OF WATER AND ENERGY

- NSW Wetlands Management Policy
- NSW Farm Dams Policy
- NSW Weirs Policy

Guidelines

Any assessment is required to take into account the following DWE Guideline for Controlled Activities (February 2008), as applicable:

- Riparian corridors (and associated Vegetation Management Plans)

Refer to: http://dnr.nsw.gov.au/water/controlled_activity.shtml

Groundwater and groundwater dependent ecosystems

DWE is responsible for the management of the groundwater resources so they can sustain environmental, social and economic uses for the people of New South Wales.

Groundwater Source

The assessment is required to identify key groundwater issues and potential degradation to the groundwater source, by providing the following if applicable:

- Describe the flow directions and rates and the physical and chemical characteristics of the groundwater source.
- Details of any proposed works likely to intercept, connect with or infiltrate the groundwater sources.
- Details of any proposed groundwater extraction, including purpose, location and construction details of all proposed bores and expected annual extraction volumes.
- Details of any predicted impacts of any final landform on the groundwater regime.
- Details of any existing groundwater users within the area (including the environment), including any potential impacts on these users.
- Assessment of the quality of the groundwater for the local groundwater catchment.
- Details of how any proposed development will not potentially diminish the current quality of groundwater, both in the short and long term.
- Details on any land contamination and its impact on groundwater pollution, including any remediation strategy.
- Details on protective measures for any groundwater dependent ecosystems (GDEs).
- Details of any proposed methods of waste water disposal and their impact on the groundwater resource.
- Assessment of the potential for saline intrusion of the groundwater and measures to prevent such intrusion into the groundwater aquifer.
- Details of the results of any models or predictive tools used.

Where potential impacts are identified, the assessment will need to identify limits to the level of impact and contingency measures that would remediate, reduce or manage potential impacts to the existing groundwater resource and any dependent groundwater environment or water users, including information on:

- Details of any proposed monitoring programs, including parameters to be measured.
- Reporting procedures for any monitoring program, including mechanism for transfer of information.
- An assessment of any groundwater source that may be impacted upon or sterilised as a consequence of any proposal.

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NSW Government

DEPARTMENT OF WATER AND ENERGY

- Identification of any nominal thresholds as to the level of impact beyond which remedial measures or contingency plans would be initiated (this may entail water level triggers or a beneficial use category).
- Description of the remedial measures or contingency plans proposed.
- Any funding assurances covering the anticipated post development maintenance cost (eg. on-going groundwater monitoring for the nominated period).

Groundwater Licensing

Any proposed groundwater works, including bores for the purpose of investigation, extraction, dewatering, testing or monitoring must be identified and an approval obtained from DWE prior to their installation.

Groundwater Dependent Ecosystems

Any assessment is required to identify any impacts on GDEs.

GDEs are ecosystems which have their species composition and natural ecological processes wholly or partially determined by groundwater. GDEs represent a vital component of the natural environment. GDEs can vary dramatically in how they depend on groundwater, from having occasional or no apparent dependence through to being entirely dependent. GDEs occur across both the surface and subsurface landscapes ranging in area from a few metres to many kilometres. Increasingly, it is being recognised that surface and groundwaters are often interlinked and aquatic ecosystems may have a dependence on both.

Ecosystems that can depend on groundwater and that may support threatened or endangered species, communities and populations, include:

- Terrestrial vegetation that show seasonal or episodic reliance on groundwater.
- River base flow systems, which are aquatic and riparian ecosystems in or adjacent to streams/rivers that are dependent on the input of groundwater for base flows.
- Aquifer and cave ecosystems.
- Wetlands.
- Estuarine and near-shore marine discharge ecosystems.
- Fauna which directly depend on groundwater as a source of drinking water.

The NSW Groundwater Dependent Ecosystem Policy provides guidance on the protection and management of GDEs. It sets out management objectives and principles to:

- Ensure the most vulnerable and valuable ecosystems are protected.
- Manage groundwater extraction within defined limits, thereby providing flow sufficient to sustain ecological processes and maintain biodiversity.
- Ensure sufficient groundwater of suitable quality is available to ecosystems when needed.
- Ensure the *precautionary principle* is applied to protect GDEs, particularly the dynamics of flow and availability and the species reliant on these attributes.

A number of gazetted WSPs list and map priority GDEs, as well as setting out the management strategies and actions for sharing and protecting groundwater quality, quantity and dependent ecosystems.

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NSW Government

DEPARTMENT OF WATER AND ENERGY

Surface Waters

DWE is responsible for the sustainable management of rivers, estuaries, wetlands and adjacent riverine plains.

Watercourse/Riparian

Any assessment is required to consider the impact of the proposal on the watercourses and associated riparian vegetation within the site, by providing the following:

- Identification of the sources of surface water.
- Details of stream order (using the Strahler System).
- Details of any proposed surface water extraction, including purpose, location of existing and proposed pumps, dams, diversions, cuttings and levees.
- Detailed description of any proposed development or diversion works including all construction, clearing, draining, excavation and filling.
- Evaluation of the proposed methods of excavation, construction and material placement.
- A detailed description of all potential environmental impacts of any proposed development in terms of riparian vegetation, sediment movement, water quality and hydraulic regime.
- A description of the design features and measures to be incorporated into any proposed development to guard against long term actual and potential environmental disturbances, particularly in respect of maintaining the natural hydrological regime and sediment movement patterns and the identification of riparian buffers. (See note below)

The *Rivers and Foreshores Improvement Act 1948 (RFIA)* has been repealed and the controlled activity provisions in the *WMA* have commenced. The provisions relating to Controlled activities replaced the *RFIA* from 4 February 2008.

Riparian corridors form a transition zone between terrestrial and aquatic environments and perform a range of important environmental functions. The protection or restoration of vegetated riparian areas is important to maintain or improve the geomorphic form and ecological functions of watercourses through a range of hydrologic conditions in normal seasons and also in extreme events.

DWE's *Guidelines for Controlled Activities - Riparian Corridors* (February 2008) recommends the following minimum Core Riparian Zones (CRZ) widths (refer to website below):

- **CRZ of 10 metres** (on both sides of the watercourse) for:
 - Any first order watercourse where there is a defined channel where water flows intermittently;
- **CRZ of 20 metres** (on both sides of the watercourse) for:
 - Any permanently flowing first order watercourse, or
 - any second order watercourse where there is a defined channel where water flows intermittently or permanently;
- **CRZ of 20 - 40 metres** (on both sides of the watercourse) for:
 - Any third order or greater watercourse where there is a defined channel where water flows intermittently or permanently. Includes estuaries, wetlands and any parts of rivers influenced by tidal waters -- (merit assessment based).

[Note: Watercourse order as classified under the Strahler System].

http://www.dnr.nsw.gov.au/water/controlled_activity.shtml

28 Honeysuckle Drive Newcastle NSW 2300 PO Box 2213 Dangar NSW 2309
Telephone (02) 4904 2600 Facsimile (02) 4904 2501 Website dwe.nsw.gov.au



NSW Government

DEPARTMENT OF WATER AND ENERGY

In addition to the above recommended CRZs, an additional **vegetated buffer (VB) of 10 metres** should be provided on both sides of the watercourse, measured from the outer edge of the CRZ, to allow for edge effects.

Any works which involve excavation on "waterfront land" will require a permit under the WMA. In order to reduce the number of referrals of future development applications to DWE, Council is encouraged to ensure that development is excluded from these areas via appropriate zoning. Appropriate riparian buffers should be included in any such zoned areas.

DWE requires that all structural works, including works for stormwater capture and treatment, are located outside any riparian buffer.

Sustainable water supply

Any assessment must address the issue of provision of a sustainable water supply for any proposed development. 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. The draft LEP could include specific local provisions requiring the development of site *Water Management Plans* detailing how a sustainable and efficient water supply can be sourced and implemented, with minimal reliance on accessing valuable surface and groundwater resources.

Farm dams

There are a number of existing farm/water supply dams within the proposed site. Prior to any rezoning, 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

DWE would be pleased to provide more detailed comment once an LES has been completed, and a draft LEP is available for comment. Should there be any further enquiry in this matter in the interim, please contact me on (02) 4904 2634.

Yours sincerely



Jeff Hunt
Senior Project Planner
Major Projects and Planning

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All communications to be addressed to:

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

Telephone: (02) 8741 5555

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

Facsimile: (02) 8741 5550

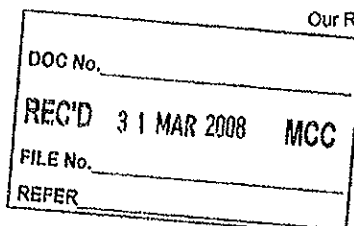


The General Manager
Maitland City Council
PO Box 220
MAITLAND NSW 2320

Attention: Mark Roser

Your Ref: 103/132 (575711)

Our Ref: LEP 0081
A08/0150



19 March 2008

Dear Mr Roser,

**Re: Draft Local Environmental Plan Amendment – Thornton North (Chisholm)
Stage 2 Various Parcels.**

I refer to your letter dated 25 February 2008 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) is supportive of the proposal but advises that any development identified as bush fire prone on the Maitland Bush Fire Prone Land map proposed for future residential or Special Fire Protection Purpose Developments, will be subject to the requirements of Section 79BA of the *Environmental Planning and Assessment Act 1979* and Section 100B of the *Rural Fires Act 1997*.

In addition, the requirements of *Planning for Bushfire Protection 2006* are to be considered in the planning stages of any development. Therefore, it is advised a bushfire threat assessment be prepared for future development on the site, addressing the requirements of *Planning for Bushfire Protection 2006*.

For any enquiries regarding this correspondence please contact Luke Catorail.

Yours sincerely

Nika Fomin
Development Control Co-ordinator

◆ Rural Fire Service Advisory Council

◆ Bush Fire Co-ordinating Committee

Your reference : 103/132 (677630)
Our reference : DCC08/10481
Contact : Lucas Grenadier, (02) 4908 6820

General Manager
Maitland City Council
PO Box 220
Maitland NSW 2320

DOC No.
REC'D - 7 MAY 2008 MCC
FILE No.

- 6 MAY 2008

Attention: Mark Roser

**RE: SECTION 62 CONSULTATION DRAFT AMENDMENT TO THE MAITLAND LEP 1993 -
RUTHERFORD INDUSTRIAL INVESTIGATION AREA**

I refer to your correspondence requesting comments from the Department of Environment and Climate Change (DECC) in relation to the preparation of a draft Local Environment Plan (LEP) on the above matter.

The DECC has considered the above-mentioned proposal and prior to finalising the LEP, it is recommended that Council be satisfied that:

- The proposed LEP is not likely to result in impacts on areas of native vegetation, with special reference to threatened or regionally significant flora and fauna species, populations and ecological communities. Where impacts are proposed on areas of biodiversity value, the proponent has clearly demonstrated how they propose to offset any loss in biodiversity value to meet the "improve or maintain" threshold.
- Any potential landuse conflicts associated with air, noise and odour impacts are adequately addressed, particularly in relation to premises scheduled under the *Protection of the Environment Operations Act 1997*.
- The proposed LEP adequately considers the relevant threatened species provisions of the *Environmental Planning and Assessment Act 1979*, State Environmental Planning Policy (SEPP) 44 - Koala Habitat Protection, and the *Native Vegetation Act 2003*.
- In preparing the LEP, an appropriate level of Aboriginal cultural heritage assessment has been undertaken, and that the proposed LEP is not likely to impact on areas of cultural significance to the Aboriginal community. Also, it is important that the views of Aboriginal community groups be sought and fully considered in regard to the preparation of the LEP.

The Department of Environment and Conservation NSW is now known as
the Department of Environment and Climate Change NSW

PO Box 466G, Newcastle NSW 2300
117 Burt Street, Newcastle West, NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4908 6810
ABN 90 841 387 271
www.environment.nsw.gov.au

Department of Environment and Climate Change NSW

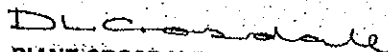
- Potential direct and indirect impacts on DECC estate, wilderness areas, wild rivers and recognised areas of high conservation value have been adequately considered and avoided, ameliorated or compensated as appropriate;
- Any areas of contamination on the site are identified and managed in accordance with the *Contaminated Land Management Act 1997*;
- Stormwater emanating from the area must be managed in a sustainable manner to prevent any impacts on the adjacent rivers, wetlands or estuaries.

To assist Council in the preparation of the LEP, more comprehensive DECC Guidelines are provided in Attachment 1.

Your attention is also drawn to the Commonwealth legislation, the *Environment Protection and Biodiversity Conservation Act 1999*. If the proposed LEP affects any species requiring consideration under this legislation then consultation may be required from the Department of the Environment, Water, Heritage and the Arts.

If you have any enquiries concerning this advice, please contact Lucas Grenadier, Conservation Planning Officer, on 4908 6829.

Yours sincerely


DIANE CROSDALE
 Head Planning Unit - Hunter
Environment Protection and Regulation

Attachment 1: Guidelines for Preparing Local Environmental Plans

Department of Environment and Conservation NSW

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