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

Our ref: PP\_2013\_MAITL\_001\_00 (13/08104)  
Your ref: R212003 (947357)

Dear Mr Evans,

### **Planning proposal to amend Maitland Local Environmental Plan 2011**

I am writing in response to your Council's letter dated 8 May 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at 149 Aberglasslyn Road, Aberglasslyn from RU2 Rural Landscape to R1 General Residential, reduce the minimum lot size for the subject land to 450sqm and insert a clause under Maitland Local Environment Plan (LEP) 2011 to allow the subdivision of split-zoned lots that do not satisfy the minimum lot size.

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

While I support the planning proposal, it is considered that the proposal to amend the zoning and minimum lot size for land at Aberglasslyn and to include a provision to allow the subdivision of split-zoned lots require different timeframes for community consultation and finalisation. Consequently, Council is to split the planning proposal into two separate amendments to reflect the above position. I understand that Council supports this approach. Council is advised that this letter and attached Gateway determination refer to PP\_2013\_MAITL\_001\_00, being the proposal to amend the zoning and minimum lot size for land at Aberglasslyn.

I have also agreed the planning proposal's inconsistencies with S117 Directions 4.1 Acid Sulfate Soils and 5.1 Implementation of Regional Strategies are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 6 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Ben Holmes of the regional office of the department on 02 4904 2709.

Yours sincerely,

  
**Neil McGaffin**  
**Executive Director**  
**Rural and Regional Planning**

## Gateway Determination

**Planning proposal (Department Ref: PP\_2013\_MAITL\_001\_00):** to rezone land at Aberglasslyn for residential purposes and amend the minimum lot size for the subject land.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Maitland Local Environmental Plan (LEP) 2011 to rezone land at 149 Aberglasslyn Road, Aberglasslyn from RU2 Rural Landscape to R1 General Residential and reduce the minimum lot size for the subject land to 450sqm should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to split the planning proposal into two separate amendments. PP\_2013\_MAITL\_001\_00, the proposal subject to this Gateway determination, is to reflect the amendment to the zoning and minimum lot size for land at Aberglasslyn. PP\_2013\_MAITL\_002\_00 is to reflect the proposed provision to allow the subdivision of split-zoned lots that do not satisfy the minimum lot size.
2. Prior to undertaking public exhibition, Council is to update the 'Location Map' within Appendix 1 of the planning proposal so that land identified as being the 'subject land' corresponds with the land subject to a change in the zoning and minimum lot size.
3. 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* (Department of 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* (Department of Planning & Infrastructure 2013).
4. Consultation is required with the Department of Primary Industries – Agriculture (DPI) under section 56(2)(d) of the EP&A Act. DPI 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. Council is to update its consideration of S117 Directions 1.2 Rural Zones and 1.5 Rural Lands following its consultation with DPI.
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 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).



## Planning & Infrastructure

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

Dated 6th day of June 2013.

**Neil McGaffin**  
**Executive Director**  
**Rural and Regional Planning**  
**Department of Planning and Infrastructure**

**Delegate of the Minister for Planning and Infrastructure**



## WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Maitland City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

| Number               | Name                                                                                                                                                                                       |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PP_2013_MAITL_001_00 | Planning proposal to rezone land at 149 Aberglasslyn Road, Aberglasslyn from RU2 Rural Landscape to R1 General Residential and reduce the minimum lot size for the subject land to 450sqm. |

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 6th June 2013

Neil McGaffin  
Executive Director  
Rural and Regional Planning  
Department of Planning and Infrastructure

## Attachment 5 – Delegated plan making reporting template

### Reporting template for delegated LEP amendments

#### Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the department**

| Stage                               | Date/Details         |
|-------------------------------------|----------------------|
| Planning Proposal Number            | PP_2013_MAITL_001_00 |
| Date Sent to Department under s56   | 08/05/2013           |
| Date considered at LEP Review Panel | 31/05/2013           |
| Gateway determination date          | 06/06/2013           |

**Table 2 – To be completed by the RPA**

| Stage                                           | Date/Details | Notified Reg Off |
|-------------------------------------------------|--------------|------------------|
| Dates draft LEP exhibited                       |              |                  |
| Date of public hearing (if held)                |              |                  |
| Date sent to PCO seeking Opinion                |              |                  |
| Date Opinion received                           |              |                  |
| Date Council Resolved to Adopt LEP              |              |                  |
| Date LEP made by GM (or other) under delegation |              |                  |
| Date sent to DP&I requesting notification       |              |                  |

**Table 3 – To be completed by the department**

| Stage                         | Date/Details |
|-------------------------------|--------------|
| Notification Date and details |              |

#### Additional relevant information: