



city council

PLANNING PROPOSAL
AMENDMENT TO THE MAITLAND LEP 2011

'GLEBE TRUST SITE'
WALLIS STREET, EAST MAITLAND)

(Lot 195 DP755237)

Version 0.1
04/09/2013



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EXECUTIVE SUMMARY

This planning proposal has been prepared in accordance with section 55 of the Environmental Planning and Assessment Act 1979 and the Department of Planning and Infrastructure's 'Guidelines for preparing planning proposals'. The planning proposal explains the intended effects of the rezoning of land known as 'The Glebe Trust Site' for urban purposes and to retain areas of indigenous and European significance.

The site is at Wallis Street, East Maitland and described as Lot 195 DP755237. This site is 16.76Ha in area. The proposal will create an area of residential land achieving approximately 40 residential allotments and a single residual lot that is proposed to be rezoned E3 Environmental management. The residual lot will encompass the flood affected area, the sites of indigenous significance, the ecologically endangered community, 47 of the 67 hollow bearing trees, provide an area for compensatory re-vegetation and protect the curtilage to the Glebe Cemetery.

The indicative lot plan illustrates a perimeter road between the residential area and the residual lot that will also include an extension of the East Maitland Town Walk. The perimeter road is considered an appropriate interface between the residential and rural land uses. Subject to the consideration of the natural drainage line a perimeter road should continue along the full length of the site to Glebe Street.

The subject site is identified as a potential urban infill and urban extension development site in the Maitland Urban Settlement Strategy 2010.

The site is in close proximity to sites of significant indigenous and European heritage, it contains hollow bearing trees and it is affected (in part) by flooding. These are key considerations of this planning proposal.

PART 1 – OBJECTIVES OR INTENDED OUTCOMES

This planning proposal seeks to amend the Maitland Local Environmental Plan 2011 by rezoning the subject site to enable the development of the site (in part) for urban purposes and to protect areas of indigenous and European significance and environmental qualities and constraints.

PART 2 – EXPLANATION OF PROVISIONS

The planning proposal seeks to amend the Maitland Local Environmental Plan 2011 by;

- Amending the Land Zoning Map (LZN) from RU2 Rural Landscape to R1 General Residential and E3 Environmental Management in accordance with the proposed zoning map at appendix 3; and
- Amending the Lot Size Map (LSZ) in accordance with the proposed lot size map at appendix 3.

PART 3 - JUSTIFICATION

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 the Planning Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The Maitland Urban Settlement Strategy (MUSS) 2010 is Council's principle strategic land use plan. The MUSS allows the consideration of land within the existing urban footprint 'urban infill' and small sites (<15ha) adjoining existing serviced urban areas 'urban extension' to be rezone for urban purposes.

The site is identified as a potential urban infill and urban extension development site in the MUSS 2010 and the draft MUSS 2012. The draft MUSS 2012 is currently on exhibition as part of a biennial review.

The Department of Planning and Infrastructure have endorsed the MUSS 2010.

The planning proposal is supported by the following studies;

- Environmental Study
- Heritage Assessment
- Flora, Fauna and Threatened Species Assessment
- Preliminary Contaminated Site Assessment

2. Is the planning proposal as best way to achieve the objectives?

The subject site is currently zoned RU2 Rural Landscape with a minimum lot size of 40ha by the Maitland LEP 2011. Subdivision for urban purposes cannot be achieved without amending the LEP.

The proposed zones (R1 General Residential and E3 Environmental Management) reflect the proposed outcome of the site. R1 General Residential with a minimum lot size of 450m² is consistent with the adjoining residential development. The Heritage Assessment states that this type of development is appropriate to protect the heritage values of the Glebe cemetery and its curtilage.

Rezoning the residual land E3 Environmental Management acknowledges a range of qualities on this part of the site. The objectives of the E3 zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To maintain and improve the connectivity of habitat between remnant areas of native vegetation.

The residual area will encompass the aboriginal heritage items and site, it will provide an appropriate curtilage to the Glebe Cemetery, it will retain 41 hollow bearing trees and provide land to vegetate and offset around 26 hollow bearing trees and it will protect the EEC identified on the site. A large portion of the site is also constrained by flooding.

The heritage assessment also confirms that a rural use on the residual land is an appropriate setting for the cemetery. The E3 zone permits extensive agriculture¹.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy and exhibited draft strategies?

The Lower Hunter Regional Strategy (LHRS) supports urban infill on the basis that it provides better use of existing infrastructure, and reduced travel by placing people, jobs and services closer

¹ extensive agriculture means any of the following:

- (a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
- (b) the grazing of livestock for commercial purposes,
- (c) bee keeping,
- (d) a dairy (pasture-based).

together. Achieving a more sustainable balance of infill to new urban development also reduces the pressure to find new, large scale greenfield sites for development.

The LHRs 2006 identifies 3000 urban infill dwellings for Maitland between 2006-2031. The rezoning of the subject land will assist in meeting this projection. The proposal will satisfy the neighbourhood planning principles for urban development as outlined under the LHRs 2006.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The MUSS allows the consideration of land within the existing urban footprint 'urban infill' and small sites (<15ha) adjoining existing serviced urban areas 'urban extension' to be rezoned for urban purposes. The site is identified as an urban extension area in the MUSS 2010 and the draft MUSS 2012 that is currently subject to a biennial review. The draft MUSS 2012 is currently on exhibition.

The Department of Planning and Infrastructure have endorsed the MUSS 2010.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The following State Environmental Planning Policies are considered relevant to the proposal.

Table 1: State Environmental Planning Policies.

SEPP	RELEVANCE	CONSISTENCY AND IMPLICATIONS
SEPP (Infrastructure) 2007	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.	Nothing in this planning proposal impacts upon the aims and provisions of this SEPP.
SEPP 44 - Koala Habitat	This SEPP aims to conserve and manage areas which provide habitat to koalas, in order to reverse the declining koala population in NSW.	One preferred Koala feed tree species was identified on the subject site. The flora and fauna study states that the Eucalyptus tereticornis species exist as scattered trees and comprise less than 15% of the total number of trees in the upper and lower strata of the tree component at the site. The flora and fauna study also states that appropriate investigations were made in accordance with SAT test requirements. No scats or claw marks were observed during field surveys undertaken as part of the subject flora and fauna study, indicating a low likelihood that koalas frequent the site. The flora and fauna study submitted as part of the planning proposal indicates that the land is unlikely to support koalas. The proposal is considered to be consistent with this SEPP.
SEPP No. 55 - Remediation of Land	Provides state-wide planning controls for the remediation of contaminated	A preliminary contamination report has been submitted as part of the rezoning

SEPP	RELEVANCE	CONSISTENCY AND IMPLICATIONS
	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.	proposal. The results indicate that the land is suitable for residential purposes.
SEPP (Rural Lands) 2008	The SEPP aims to ensure the orderly and economic use of rural land, protect rural lands, reduce land use conflicts, and to minimise the fragmentation of rural land.	The SEPP is relevant since the land is currently zoned RU2 Rural landscape. The 16ha site is currently not used for any agricultural purpose. The site is in close proximity to urban residential land which may undermine its viability for future agricultural uses. The land has been identified under the MUSS 2010 as an urban infill site.

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

Table 2. s117 Directions.

MINISTERIAL DIRECTION	AIM OF THE DIRECTION	CONSISTENCY AND IMPLICATIONS
EMPLOYMENT and RESOURCES		
1.2 Rural zones	The objective of this direction is to protect the agricultural production value of rural land.	Inconsistent The 16ha site is not presently used for agricultural purposes. It is separated from the Maitland River flood plain by Wallis Creek and is therefore disconnected from other rural lands. Urban development already exists along the site's north-eastern boundary. The site is identified as an urban extension area in the Maitland Urban Settlement Strategy 2010.
1.3 Mining, Petroleum Production and Extractive Industries	To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not applicable There are no known coal or petroleum reserves in the area. There are no extractive resource industries currently in operation. The planning proposal is consistent with this direction as the proposal will not prohibit mining or impact upon extractive industries.
1.5 Rural Lands	To protect the agricultural production value of rural land, and facilitate the orderly and economic development of rural lands for rural and related purposes.	Inconsistent See 1.2 Rural zones
ENVIRONMENT and HERITAGE		
2.3 Heritage Protection	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent The site is in close proximity to the State Heritage listed, Glebe Cemetery. Additionally, the site itself is identified

MINISTERIAL DIRECTION	AIM OF THE DIRECTION	CONSISTENCY AND IMPLICATIONS
		by the local indigenous community as a significant cultural site. The planning proposal is supported by a Heritage Assessment prepared by Richard Lamb and Associates. The report concludes that the extent of the proposed rezoning and the subsequent development is unlikely to adversely affect the heritage item. The report does identify a number of actions that are required to ensure the on-going protection of the cemetery and its curtilage. These include; • Extending the LEP heritage listing to include lots 7316 DP1162547 (Quarry site), 210 DP1153113 and 7317 DP1163070. • Transferring Lots 210 DP1153113 and 7317 DP1163070 to public ownership. • Creating a heritage conservation area over the curtilage for the site. The report states that the proposed heritage conservation area retain the majority of its use as rural "which will retain its existing grassy, open character." This is an important consideration when deciding on an appropriate land use zone. E3 Environmental Management has clear objectives to protect, manage and restore areas with special cultural or aesthetic values. Extensive agriculture is permitted in an E3 zone and therefore the current 'rural' use can continue. An aboriginal cultural heritage assessment has been prepared by ARAS and endorsed by the Mindaribba Local Aboriginal Land Council. This site is listed as No: 38-4-1219 on the DECCW AHIMS database. One aboriginal object and a potential archaeological deposit (PAD) were identified in the assessment. The cultural boundaries of the site have been mapped on advice from Mr Tom Miller (Mindaribba LALC and Lower Wonnarua Council Inc) and Mr Glen Morris of DECCW. The area proposed for residential use is outside those cultural boundaries.

MINISTERIAL DIRECTION	AIM OF THE DIRECTION	CONSISTENCY AND IMPLICATIONS
HOUSING, INFRASTRUCTURE and URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing, minimise the impact of residential development on the environment and resource lands and make efficient use of infrastructure and services.	Consistent The proposed rezoning will result in a change of land use to enable future residential development at the site. The proposal is considered consistent with this direction as the land adjoins an existing urban area, the proposal meets the objectives of the LHRS, and the site was identified as suitable for urban infill/extension development in the MUSS 2010. The MUSS 2010 is an endorsed strategy.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Consistent Gazettal of the proposed rezoning will permit a future development application to be lodged for residential subdivision of the land. The proposal is consistent with this direction, given that the land is proposed to be developed in the future for residential purposes, which will permit home occupations.
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, jobs and services by methods other than private vehicles.	Consistent The proposal is a minor extension of an established urban area. The site is around 800m to the New England Highway and a bus service, 1400m to the East Maitland train station and 1700m to the Victoria Street station. Council's traffic engineer has identified that the proposal will require extensions to existing roads and footpaths within the locality, in addition to road widening along Wallis Street. The extensions to roads and footpaths are not expected to be complex, and will lead to improved transport outcomes for both existing and future residents in East Maitland. Any future development application for residential subdivision will be required to undertake a traffic impact assessment. The proposal is consistent with this direction.
HAZARD and RISK		
4.1 Acid Sulphate Soils	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	Consistent The site is identified as affected by Class 5 acid sulphate soils (ASS). A significant portion of this land is inundated during the 1:100 year flood event. The land below this level will not be rezoned for residential purposes. Clause 7.1 of the MLEP 2011 outlines provisions relating to development on

MINISTERIAL DIRECTION	AIM OF THE DIRECTION	CONSISTENCY AND IMPLICATIONS
		land affected by ASS. The ASS issue should be addressed at a DA stage for future subdivision within the site.
4.3 Flood Prone Land	Directions aims to reduce the risk of flood and to ensure that the development of flood prone land is consistent with NSW Flood Prone land policy.	Consistent A large portion of the site is affected by inundation during the 1:100 year flood event. The developable portion of the site is located above the 1:100 year flood level. As such, the proposal is considered to be consistent with this direction.
REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	Direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.	Consistent As outlined above, this planning proposal is consistent with the aims and objectives of the LHRS.
LOCAL PLAN MAKING		
6.1 Approval and Referral	Direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent The planning proposal does not affect the objectives of this direction and will be consistent with this requirement.
6.3 Site Specific Provisions	Direction aims to discourage unnecessarily restrictive site specific planning controls.	Consistent The objectives, permissible activities and associated development controls in force at the time of gazettal will applied to this land as part of the rezoning of the site.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

7. 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?

Ecologically endangered community – Lower Hunter Spotted Gum – Iron Bark Forest

The subject site currently accommodates scattered trees, which, collectively, are listed as an Endangered Ecological Community (EEC) – Lower Hunter Spotted Gum-Ironbark Forest. This is generally in the southern part of the site that is proposed to be zoned E3 environmental management. Compensatory re-vegetation is proposed in the residual lot.

Hollow bearing trees

There are 67 hollow bearing trees (with 73 hollows) identified on the site. The hollows range in size from small (33.3%), medium (37.5%) and large (29.2%). Large hollows are the rarest (as they take the longest to form) and most versatile to the greatest number of species. Around 20 of these will be removed as part of any redevelopment of the site.

The loss of hollow bearing trees is a key threatening process under the Threatened Species Conservation Act. The report by Ecobiological does not consider the issue further other than recommending that a hollow bearing tree management plan be provided at the DA stage, along with an offset landscaping plan to demonstrate where native vegetation will be rehabilitated within the site.

The management plan and landscaping plan should ensure that the re-vegetation of the proposed E3 zone adequately compensates for the loss of hollow-bearing trees. Port Macquarie-Hastings Council has developed a hollow-bearing tree assessment protocol and development provisions that could be used as a basis to calculate compensatory actions.

An assessment of suitable foraging habitat for the Rainbow Bee Eater will also be required, as the EPBC Act notes that foraging habitat is available and that this may be removed as result of future development within the site.

Koalas

One preferred Koala feed tree species was identified within the subject site. The flora and fauna study explained that the *Eucalyptus tereticornis* species exist as scattered trees and comprise less than 15% of the total number of trees in the upper and lower strata of the tree component within the site. The flora and fauna study also states that appropriate investigations were made in accordance with SAT test requirements. No scats or claw marks were observed during field surveys undertaken as part of the subject flora and fauna study, indicating a low likelihood that Koalas frequent the site.

It is considered that flora and fauna information which has been submitted to date in support of the rezoning is adequate to progress the proposal to the exhibition.

The study concludes that future development of the land for urban purposes can occur, subject to the retention of the majority of vegetation within the site.

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

The following environmental impacts are relevant to the proposal.

Acid Sulphate Soils

The site is affected by Class 5 Acid Sulphate Soils (ASS) however this is below the land proposed for urban purposes. Clause 7.1 of the MLEP 2011 outlines provisions relating to development upon land that is affected by ASS. Any future development of the site would be required to respond to these provisions.

Contamination

A preliminary geotechnical report has been submitted with the planning proposal. The report investigated sources of contamination, given the past activities associated with the land. The report determines that the site is suitable for residential purposes. Further assessment may be carried out at development application stage.

Flooding and storm water

The site is affected by flooding in a 1%AEP flood event. The area proposed for urban purposes is above the 1%AEP level.

Given the topographical characteristics associated with site, storm water generated within the site and further upstream can continue to be conveyed to Wallis Creek via the two natural drainage lines that exist within the subject site. One gully divides the proposed residential area. Maintaining the drainage line will be a design challenge that should be addressed at the DA stage. The indicative plan shows two disconnected residential areas with lots backing onto the gully. The design requires the perimeter road to return to Wallis Street and relies on lots backing onto the gully. This may not be the best way to manage this.

A comprehensive assessment of storm water will be required at the DA stage when the subdivision layout is considered.

9. Has the planning proposal adequately addressed any social and economic effects?

The following social and economic effects are relevant to the proposal.

Aboriginal Archaeology

An aboriginal cultural heritage assessment has been prepared by ARAS and endorsed by the Mindaribba Local Aboriginal Land Council. This site is listed as No: 38-4-1219 on the DECCW AHIMS database. One aboriginal object and a potential archaeological deposit (PAD) were identified as a result of the assessment. The cultural boundaries of the site have been mapped on advice from Mr Tom Miller (Mindaribba LALC and Lower Wonnarua Council Inc) and Mr Glen Morris of DECCW. The area proposed for residential use is outside those cultural boundaries.

European Heritage & Visual Impact

The site is adjoining the State Heritage Listed "Glebe Cemetery". The planning proposal is supported by a Heritage Assessment prepared by Richard Lamb and Associates (RLA).

The report concludes that the extent of the proposed rezoning and the subsequent development is unlikely to adversely affect the heritage item. However, the report states that the proposed heritage conservation area retain the majority of its use as rural "which will retain its existing grassy, open character."

The report does identify a number of actions to promote the on-going protection of the cemetery and its curtilage. These include;

1. Transferring Lots 210 DP1153113 and 7317 DP1163070 to public ownership.
2. Extending the LEP heritage listing to include lots 7316 DP1162547 (Quarry site), 210 DP1153113 and 7317 DP1163070.
3. Creating a heritage conservation area over the curtilage for the site.

Council has lodged a Heritage Office grant to review the conservation management plan for the Glebe Cemetery. The review when completed is the appropriate trigger to amend the LEP to achieve actions (2) and (3) above.

SECTION D – STATE AND COMMONWEALTH INTERESTS

10. Is there adequate public infrastructure for the planning proposal?

The rezoning proposal and the subsequent development of up to 40 lots is not expected to require significant upgrades to existing public infrastructure in the locality. The site was originally highlighted as an “Urban Infill” site because of proximity to an existing urban area. Reticulated water and sewer services currently exist within the locality.

The surrounding residential area is serviced by electricity and telecommunications services. Future development of the site would require only a minor increase in service provision and utilities providers would need to be consulted during the DA stage to ensure services can be extended.

Council's Citywide Section 94 Contributions Plan stipulates the requirements for upgrades to /additional local infrastructure resulting from development within the Maitland LGA. This plan would apply to development undertaken upon the subject land.

Traffic & Access

A traffic report has not been completed for the rezoning proposal. Council's traffic engineer has assessed the rezoning proposal and has indicated that a likely future development yield of around 40 allotments at the site would not significantly impact upon traffic in the immediate locality, and would not have any significant impact upon state or regional transport infrastructure.

The construction of a 20m road reserve for the length of Wallis Street will be a condition of development approval.

A perimeter road is proposed between the residential area and the residual lot. This is considered an appropriate interface between the land uses. If stormwater issues around the gully can be addressed the perimeter road could return to Glebe Street.

11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Council had referred the proposal to the Office of Environment and Heritage seeking information on the type and detail of the heritage/archaeological assessment given the sites proximity to the State listed heritage item.

At a minimum, it is expected that the Gateway Determination will require consultation with the following State agencies given the characteristics of the site;

- Office of Environment and Heritage

- Catchment Management Authority
- Department of Industry & Investment (Primary Industries).

PART 4 - MAPPING

The following maps have been prepared to support this planning proposal.

1. Location map.
2. Existing zone and lot size map.
3. Proposed zone and lot size map.

Other relevant maps can be found in the supporting information.

PART 5 - COMMUNITY CONSULTATION

Consultation will be undertaken in accordance with the Gateway Determination and Council's consultation process.

APPENDIX ONE: LOCATION MAP



Scale 1 : NTS
Printing Date: December 2012

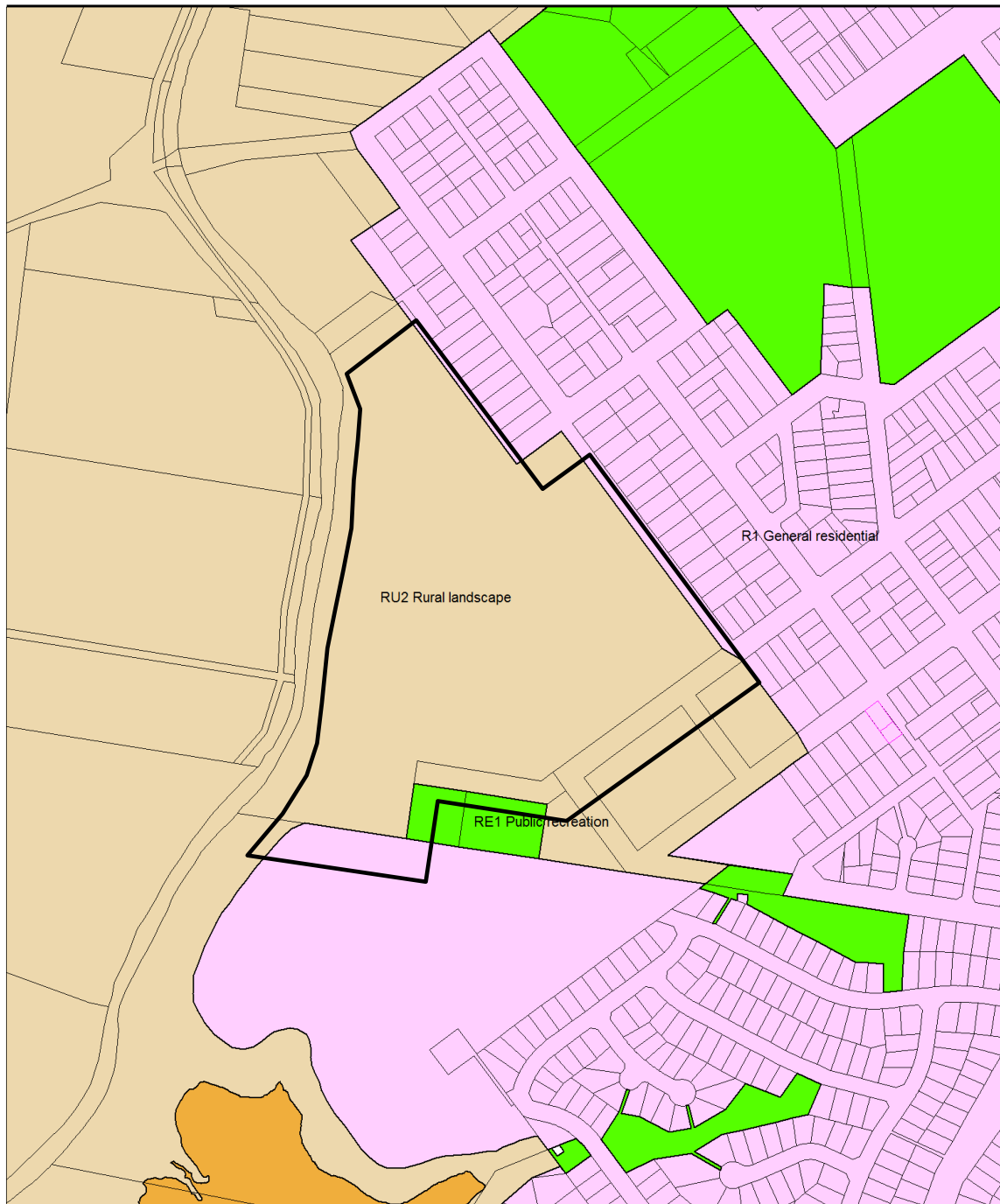


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Location plan
Lot 195 DP755237
Wallis Street, East Maitland

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 City Council

APPENDIX TWO: CURRENT LEP MAPS (LOT ZONE, LOT SIZE)



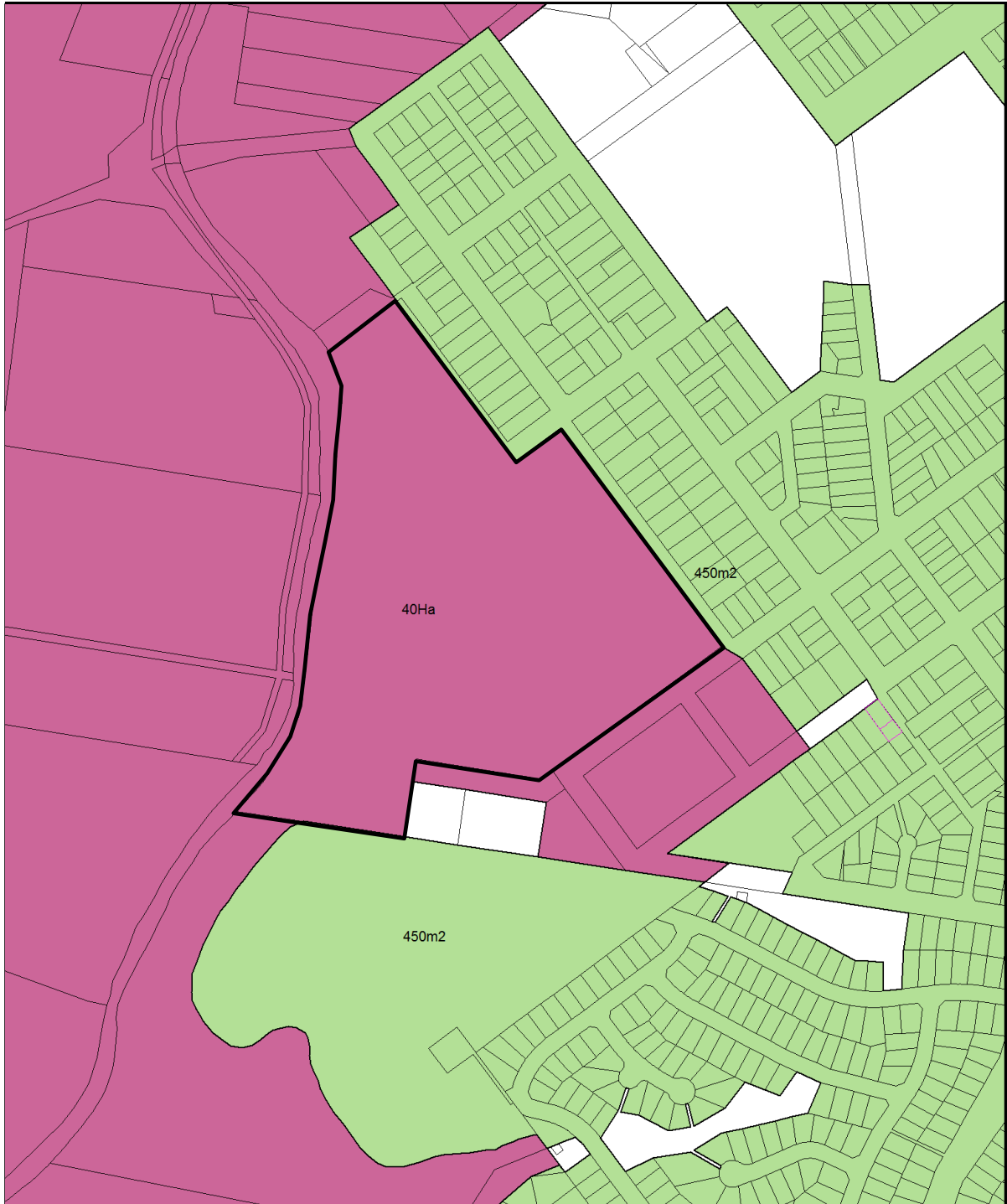
Not to scale
Printing Date: July 2013



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Existing zone plan
MLEP 2011

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Not to scale
Printing Date: July 2013

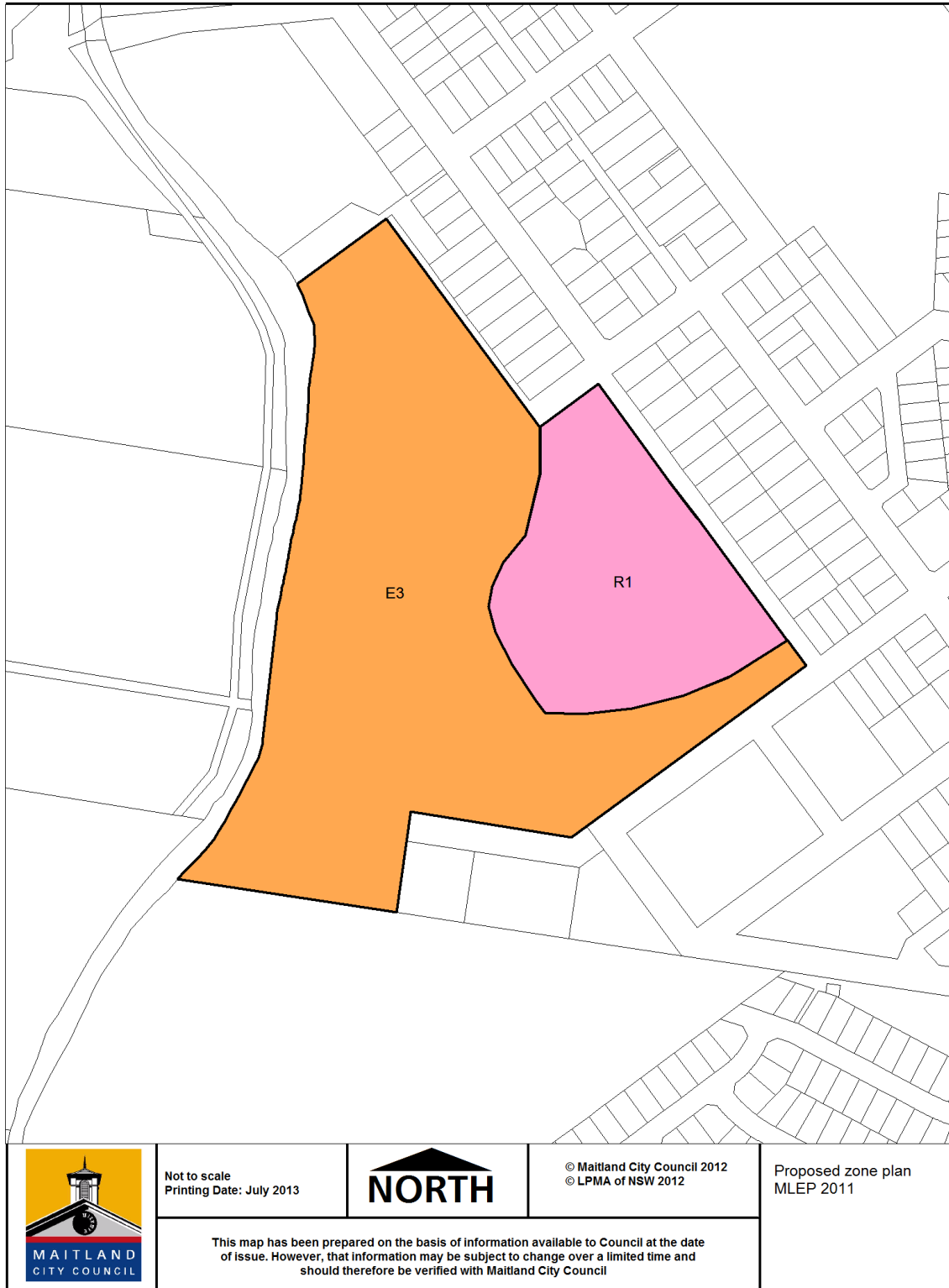


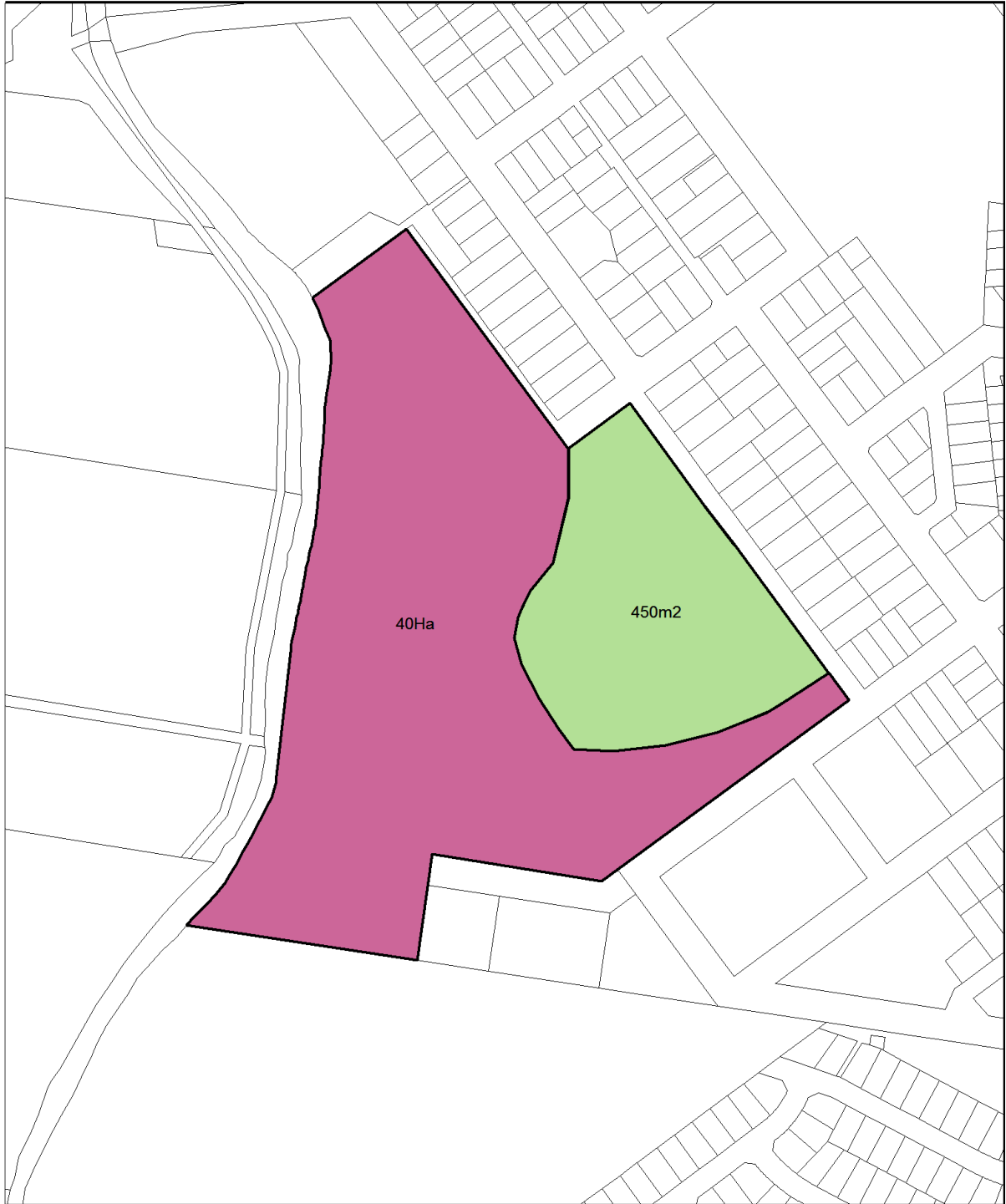
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Existing lot size plan
MLEP 2011

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 City Council

APPENDIX THREE: PROPOSED ZONING MAPS (LAND ZONE, LOT SIZE)





Not to scale
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NORTH

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Proposed lot size map
MLEP 2011

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APPENDIX FOUR: COUNCIL MINUTES