

Rezone lot 195 DP 1153110, Wallis Street, East Maitland from RU1 to R1 and E3 ('The Glebe Trust Site').

Proposal Title :	Rezone lot 195 DP 1153110, Wallis Street, East Maitland from RU1 to R1 and E3 ('The Glebe Trust Site').		
Proposal Summary :	The planning proposal (PP) would rezone lot 195 DP 1153110, Wallis Street, East Maitland from RU1 Primary Production to R1 General Residential and E3 Environmental Management under the Maitland LEP 2011. The 40 hectare minimum lot size that currently applies to the site would also be changed. The part to be rezoned R1 would have a 450 m2 minimum lot size apply, while the E3 portion would retain the existing 40 ha minimum.		
PP Number :	PP_2013_MAITL_006_00	Dop File No :	13/15195

Proposal Details

Date Planning Proposal Received :	10-Sep-2013	LGA covered :	Maitland
Region :	Hunter	RPA :	Maitland City Council
State Electorate :	MAITLAND	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Wallis Street		
Suburb :		City :	East Maitland
		Postcode :	2323
Land Parcel :	lot 195 DP1153110		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	4.50	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	1	No. of Dwellings (where relevant) :	40
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :			

Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **LOT & DP DETAILS**

The PP submitted to the Department incorrectly refers to the property as lot 195 DP 755237. The DP should be 1153110. Council has confirmed the error and will update the PP.

CURRENT ZONE APPLYING TO THE SITE

Contrary to the PP documentation, the site is currently zoned RU1 Primary Production, not RU2 Rural Landscape. Council will need to correct these references should the Gateway support the PP.

SITE DESCRIPTION

The site has an area of approximately 16.8 ha of which 4.5 ha is to be rezoned R1, with the remainder to be rezoned E3. The site slopes down towards Wallis Creek and is predominantly cleared with large parts of the proposed E3 portion being flood affected. The proposed R1 portion is not flood prone.

The site is bounded to the north and east by land developed for low density residential. To the west is Wallis Creek and farmland, while to the south is the Glebe Cemetery (State Heritage Register listed) and land rezoned (but undeveloped) for low density residential.

Adequacy Assessment

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

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

Comment : **The statement of objectives is consistent with the Department's "A guide to Preparing Local Environmental Plans."**

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

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

Comment : **The explanation of provisions is consistent with the Department's "A guide to Preparing Local Environmental Plans."**

The site is to be rezoned from RU1 Primary Production to R1 General Residential with a minimum lot size (MLS) of 450 m2 and E3 Environmental Management with the existing 40 ha MLS. The R1 zoning and 450 m2 MLS is consistent with adjoining residential land. No height or FSR standards are to apply, consistent with Council's approach to the R1 zone elsewhere.

Council has not discussed the suitability of an alternative residential zone ie Council's other residential zone R5. However, given the site adjoins low density residential and is identified for more intense development as an urban extension area in Council's local development strategy, R1 is supported.

Council advises that the E3 zone is proposed because its zone objectives align with the intended outcome for this part of the site (ie manage remnant vegetation and flood impacts, minimise heritage impacts (the E3 encompasses aboriginal items and provides curtilage to the Glebe Cemetery). The use of the E3 zone in these circumstances is supported also.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

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

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

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

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

Although not identified by Council, consideration should also be given to s117 direction 2.1 Environment Protection Zones.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Further discussion on inconsistencies is provided under the 'Consistency with Strategic Framework' section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The maps provided by Council are adequate. However, the site outline in the existing zone map provided at Appendix 2 of the PP is incorrect and should be updated to correctly identify the site. It also identifies the current zone as RU2 when it should be RU1.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has not indicated the length of community consultation.

Council anticipates the proposal would attract community interest. Given this, a 28 day consultation period is recommended.

Additional Director General's requirements

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

If Yes, reasons : **PROJECT TIMELINE**

Council's project timeline indicates the PP would be completed by April 2014. A 9 month timeframe is therefore appropriate.

PLAN-MAKING DELEGATION

Council has specifically requested it not be given plan-making delegation for this PP due to anticipated community interest and the site's proximity to a State heritage item.

As the rezoning affects a relatively small site and the R1 portion is consistent with the adjoining land, a case could be made that Council should be given plan-making delegation for this PP (despite its request to not have delegation).

However, given the site's proximity to a State heritage item, that it would rezone primary production land to residential/ environmental in the absence of a DG endorsed strategy, and Council's concerns that the matter may attract community interest, Council's request can be accommodated in this instance.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Maitland LEP 2011 was notified in December 2011.

Assessment Criteria

Need for planning proposal :

While the PP has been initiated at the request of the landowner, the site is identified in Council's Maitland Urban Settlement Strategy (MUSS) as an urban expansion area that is suitable for residential development.

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Noting this, its proximity to existing residential, and that the site would deliver needed housing, the need for the rezoning is justified.

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Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The LHRS provides guidance for non-urban land to be rezoned residential - it supports such development where the site is less than 50 ha and it is identified in a DG endorsed local strategy.

While this site is not identified for residential in a DG endorsed strategy, the rezoning is considered broadly consistent with the LHRS. It would provide additional housing in an area that is relatively well serviced by transport, shops and facilities; a desired settlement outcome of the LHRS.

LOCAL STRATEGIES

Maitland Urban Settlement Strategy 2010 (and draft 2012) (MUSS) - Council states the PP is consistent with the MUSS. The MUSS identifies the site as an urban expansion area that is suitable for residential development.

(Note: The DG has conditionally endorsed the 2008 version of the MUSS, not the 2010 version as the PP suggests. As the 2008 version did not include specific urban extension sites, the DG has not endorsed Council's intention to rezone this site as the PP implies).

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat Protection - SEPP 44 requires Council to include core koala habitat in an environmental protection zone or apply special provisions to control the development of that land. This may also include preparing a DCP for land adjoining the core koala habitat.

Council indicates that a flora and fauna study has been undertaken, with the study noting limited amounts of one preferred koala feed tree species on the site. It also noted no evidence of koalas, concluding that there is a low likelihood that koalas frequent the site.

Council concludes that adequate information has been provided in support of progressing the PP to community consultation.

The Department agrees with Council's assessment, noting that the SEPP requires Council to reconsider this matter as part of a future DA.

SEPP 55 Remediation of Land - Council advises a preliminary contamination assessment has been undertaken which concludes the land is suitable for residential development.

SEPP (Rural Lands) 2008 - While there is no specific action in the SEPP regarding PPs, consistency with its Rural Planning Principles (cl. 7) and Rural Subdivision Principles (cl. 8) is required by s117 direction 1.5 Rural Lands. The PP is inconsistent with the principles because it would rezone the land from rural (RU1) to low density residential (R1) and environmental (E3) and reduce the minimum lot size from 40 ha to 450 m2 (for the R1 portion).

Council's position is that the site is not currently used for an agricultural purpose and that its proximity to existing residential may limit its viability for future agricultural use. Advice on this matter should be sought from DPI (Agriculture) who can confirm the agricultural value of the land and in turn whether the inconsistency is of minor significance.

S117 DIRECTIONS

The PP is consistent with the relevant s117 directions except the following which require further discussion:

1.2 Rural Zones - inconsistent as the PP would rezone RU1 land to R1/ E3 (cl.4a). Consultation with DPI (Agriculture) should occur in order to inform Council's consistency

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assessment.

1.5 Rural Lands - inconsistent as the PP is inconsistent with both the Rural Planning Principles and Rural Subdivision Principles (cl.4&5). DPI (Agriculture) should be consulted to inform Council's consistency assessment.

2.1 Environment Protection Zones - Council has not identified this direction as applying. However, the PP makes reference to the site containing 'scattered trees, which, collectively, are listed as an EEC', some of which would be removed as part of the proposal. This, coupled with the loss of 20 hollow bearing trees, suggests that OEH should be consulted.

2.3 Heritage Conservation - The site has both aboriginal and non-aboriginal heritage value. Council notes that a cultural heritage study has identified Aboriginal heritage items (in the E3 portion) and the site to be an important aboriginal site. Council states the heritage assessment has been endorsed by the local Aboriginal Land Council. Further consultation with the Land Council on the planning controls now proposed should also occur. Consultation with OEH should also occur.

The site also borders the Glebe Cemetery which is a State heritage item. A study has been undertaken to inform the proposed planning controls. Consultation with OEH (Heritage Branch) and the National Trust should occur and their advice be considered by Council.

4.1 Acid Sulfate Soils (ASS) - The PP is inconsistent as Council does not intend to undertake an ASS study (cl.6). As the part of the site that would be developed (the R1 zoned portion) is identified as Class 5 and subject to the ASS provisions in the LEP, ASS issues can be adequately addressed at the DA stage. The DG should agree that the PP's inconsistency with this direction is of minor significance.

Environmental social
economic impacts :

Council advises that studies have been undertaken to investigate environmental impacts - contamination, heritage (both indigenous and non-indigenous), visual and flora and fauna. Specialist advice on traffic impacts has also been provided (from Council's traffic engineer). Council is satisfied that environmental impacts can be adequately managed. Consultation with both the community and agencies/ organisations identified in this report would further inform Council's understanding of potential impacts and their management.

The social and economic benefits associated with the PP are anticipated to be positive. The rezoning would result in additional housing in a locality that is relatively well serviced in terms of transport, shops and facilities.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Consultation should also occur with the Local Aboriginal Land Council and the National Trust.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **State infrastructure contributions should be required for the R1 portion of this site. This has been confirmed by the Infrastructure & Planning Coordination team.**

The explanation of provisions should be amended to note the site would be mapped as an urban release area.

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Council Covering Letter.pdf	Proposal	Yes
Council Minutes.pdf	Proposal	Yes
IPC advice.pdf	Study	No
Project Timeline.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Additional Information : **The following conditions are recommended:**

- 1. Prior to undertaking public exhibition, Council is to:**
 - (a) replace references to DP 755237 in the planning proposal with the correct DP, DP 1153110;**
 - (b) replace references in the planning proposal to the site being zoned RU2 Rural Landscape with the correct RU1 Primary Production zone;**
 - (c) amend the Explanation of Provisions to note that the site will be mapped as an Urban Release Area and prepare a map accordingly; and**
 - (d) amend the existing zoning map in Appendix 2 of the planning proposal so that the land identified as the site corresponds with the land subject to the planning proposal.**
- 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**

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- (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 LEPs (Department of Planning & Infrastructure 2013).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Department of Primary Industries (Agriculture) and update Council's consideration of S117 Directions 1.2 Rural Zones and 1.5 Rural Lands as well as SEPP (Rural Lands) 2008.
- Office of Environment and Heritage and include Council's consideration of S117 Direction 2.1 Environment Protection Zones and S117 Direction 2.3 Heritage Conservation. Consultation should also occur with the Local Aboriginal Land Council and the National Trust.

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.

4. 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).

5. The timeframe for completing the LEP is to be 9 months.

The DG (delegate) should agree that the PP's inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of minor significance.

Supporting Reasons :

Signature:



Printed Name:

KO'FLAHERTY

Date:

20-9-13