

Farley Investigation Area (Stage 1)

Proposal Title : **Farley Investigation Area (Stage 1)**

Proposal Summary : **To rezone 175 ha of land as Stage 1 of the Farley Investigation Area from RU2 Rural Landscape to R1 General Residential and E3 Environmental Management, and create an Urban Release Area.**

PP Number : **PP_2011_MAITL_003_00**

Dop File No : **11/18327**

Proposal Details

Date Planning **31-Oct-2011**

LGA covered : **Maitland**

Proposal Received :

Region : **Hunter**

RPA : **Maitland City Council**

State Electorate : **MAITLAND**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **Wollombi Road**

Suburb : **Farley**

City : **Maitland**

Postcode : **2320**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

Contact Email : **dylan.meade@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Josh Ford**

Contact Number : **0249349729**

Contact Email : **joshF@maitland.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub
Regional Strategy : **Lower Hunter Regional
Strategy**

Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	175.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	1,500	No. of Dwellings (where relevant) :	1,500
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 : **The Farley Investigation Area is consistent with urban release program for Maitland outlined in the Maitland Urban Settlement Strategy. The site is the last Category 1 Area within Maitland LGA with the rezoning of other Category 1 sites already progressed.**

Adequacy Assessment

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

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

Comment : **The statement of objectives explains that the intent of the planning proposal is to:**

- **rezone land within the Farley Investigation Area for a variety of purposes, including residential, recreational and environmental,**
- **enable sequencing of land to support the Farley Urban Release Area,**
- **minimise environmental impacts,**
- **support public transport, and**
- **promote logical extension of all necessary public infrastructure.**

The state of objectives is considered adequate, except Council have confirmed there is no intent to rezone land for recreational purposes as part of this planning proposal, and that recreation activities may occur within the future residential or environmental zones. It is recommended that references to 'recreational uses' be removed from the statement of objectives for clarity.

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

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

Comment : **The explanation of provisions indicates that the planning proposal will be implemented through an amendment to the (draft) Maitland LEP 2011. This will include amendments to the land zoning, minimum lot size and urban release area maps.**

The explanation of provisions is considered adequate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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 :

Studies have been provided in support of planning proposal which further justify the proposal.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The following maps are provided as part of the planning proposal and clearly identify the outcomes proposed to be achieved:

- Location map
- Site identification map
- Draft land zoning map
- Draft lot size map
- Urban Release Area map

It is recommended that Council also exhibit the planning proposal with:

- Flood prone land map
- Aerial Photo overlaid with proposed zone boundary and / or vegetation mapping
- Map showing outline of Category 1 and Category 2 Farley release areas

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has identified the proposal as not of low impact. Council states that the site is not of low impact as the site is identified in the Lower Hunter Regional Strategy (LHRS) as a 'proposed urban area' and in the Maitland Urban Settlement Strategy (MUSS) a Category Area 1 Investigation Area, as well as adjoining the proposed Maitland to Minimbah Third Track. Council has proposed period of consultation of 28 days.

The potential urban release area of 175 ha is considered a substantial size that is likely to have impacts on the local community and infrastructure providers. The 28 day period of community consultation is supported.

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Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : **Maitland Council is progressing with its comprehensive LEP (draft LEP 2011) which was publicly exhibited between 15 November and 20 December 2010. The draft LEP was submitted to the Department with a section 68 report on 3 August 2011. A PC Opinion is currently being sought, and it is expected the draft LEP will be gazetted by December 2011.**

Assessment Criteria

Need for planning proposal : **The Farley Investigation Area is identified in the Lower Hunter Regional Strategy (LHRS) as a 'proposed urban area'.**

The site is also identified in the endorsed Maitland Urban Settlement Strategy (MUSS) as a Category 1 Investigation Area. The MUSS was endorsed by the Department in 2009. The MUSS monitors zoned residential land in the Maitland LGA and ensures a supply of zoned land is maintained consistent with the LHRS. Category 1 Investigation Areas are identified for rezoning in a 0 to 5 year time frame.

An extension of the Farley investigation area was recently adopted by Council as a Category 2 Investigation Area (5 - 10 year release). This extension is likely to form a future planning proposal.

An LEP amendment is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.

Although no formal net community benefit test has been undertaken, Council's assessment has indicated that there is likely to be a net community benefit.

Consistency with
strategic planning
framework :

REGIONAL AND LOCAL STRATEGIES

Farley is identified as a proposed urban area within the Lower Hunter Regional Strategy. The proposal is considered consistent with the objective and aims of the Strategy.

The MUSS 2008 (which is consistent with the LHRs) identifies the Farley Investigation Area site as Category 1 – Residential Investigation. The MUSS 2008, including this site categorisation, was endorsed by the Department on 1 September 2009.

The Maitland Activity Centres and Employment Clusters Strategy 2010 identifies that population growth in Farley is likely to provide the opportunity for a development of a neighbourhood centre. It is considered that the location of a commercial centre, if required, should be undertaken after precinct planning has occurred. Any zoning change to commercial would need to be undertaken as a separate planning proposal.

SECTION 117 LOCAL PLANNING DIRECTIONS

The planning proposal is considered inconsistent with the following s.117 Directions and SEPPs:

1.2 Rural Zones

The planning proposal is inconsistent with this direction as it rezones land from a rural zone to a residential zone. The inconsistency is justified as the planning proposal is in accordance with the Lower Hunter Regional Strategy (LHRs) which identifies the land as a 'proposed urban area'. The LHRs give consideration to the objective of this direction.

1.5 Rural Lands

The planning proposal is inconsistent with the Rural Planning Principles listed in State Environmental Planning Policy with regard to providing opportunities for rural lifestyle, and therefore inconsistent with this Direction. The inconsistency is justified as the planning proposal is in accordance with the LHRs which identifies the land as a 'proposed urban area'. The LHRs and the MUSS give consideration to the objective of this direction.

4.1 Acid Sulfate Soils

The planning proposal is inconsistent with this Direction as the planning proposal proposes intensification of land uses on land identified as containing Class 5 acid sulfate soils on draft Maitland LEP 2011 Acid Sulfate Soils Planning Maps. Council has not considered an acid sulfate soils study in assessing the appropriateness of the change of land use given the possible presence of acid sulfate soils. It is recommended that Council considers an acid sulfate soils study before proceeding to exhibition.

4.4 Planning for Bushfire Protection

Land within the subject site is mapped as bushfire prone land. It is recommended that Council consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation take into account any comments made by the Commissioner.

The planning proposal is considered consistent with all other SEPPs and Section 117 Directions, including:

2.1 Environmental Protection Zones

The planning proposal is considered consistent with this direction as it does not reduce the environmental protection standards that apply to the land. The land is currently zoned for rural purposes and the rezoning to environmental and

2.3 Heritage Conservation

The site contains an item of known local significance, Owl Pen House. The planning proposal is considered consistent with this direction as it does not amend heritage provisions applying to the item under the draft Maitland LEP 2011. Council advises investigations relating to Aboriginal Heritage have been completed, and their findings

agreed to by the Mindaribba Local Aboriginal Land Council.

3.1 Residential Zones

The planning proposal is consistent with this direction as it contains a requirement that residential development is not permitted until land is adequately serviced, as it is proposed to map the site as an 'Urban Release Area' where model provisions for servicing apply.

4.3 Flood Prone Land

A portion of the site is identified as being flood prone and is mapped within the 1:100 year flood level. It is proposed to retain the RU2 Rural Landscape zone for the flood affected land. It is recommended that Council exhibit flood maps identifying the affected land in relation to proposed zone boundaries.

5.1 Implementation of Regional Strategies

The Lower Hunter Regional Strategy identifies Farley as a 'Proposed Urban Area'. The planning proposal is considered consistent with this direction.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP 55 Remediation of Land

At this stage it is not possible to determine consistency with SEPP 55 Remediation of Land. A preliminary contamination assessment of the site recommends further site specific investigation to confirm the absence and / or presence of contamination on the site. Council has indicated that it can not guarantee the proposal is consistent with the SEPP until further detailed investigations occur at the development assessment stage. It is recommended that Council only exhibits the planning proposal once it is satisfied the proposal is consistent with SEPP 55.

Environmental social
economic impacts :

The site contains Endangered Ecological Communities (EEC) of the Lower Hunter Spotted Gum Ironbark Forest and the Hunter Lowland Redgum Forest. The supporting flora and fauna assessment submitted by the proponent identified five threatened fauna species within the site. A sixth threatened species has been previously identified within the site.

It is considered that flora and fauna issues can be addressed through the proposed environmental zoning of remnant vegetation. It is recommended that consultation with the Office of the Environment and Heritage occur to confirm.

Issues of bushfire risk, contamination, noise and vibration, acid sulfate soils and flooding have been considered through site investigation and will be further considered through the progression of the planning proposal.

The site contains the local heritage listed property Owl Pen House. The Council is satisfied that the issue of heritage conservation can be managed through the precinct planning at the development assessment stage of the process.

The potential social and economic benefits of the proposal relate to the benefits of providing additional residential development opportunities in proximity to existing areas and the services and infrastructure they provide.

PART 3A APPLICATIONS

The proposal is in close proximity to two Part 3A Applications.

***MP 09-0024**

The Maitland to Minimbah Third Track rail project adjoins the site along the northern boundary. The application was assessed under Part 3A (MP 09_0024 and EPBC 2009/4897) and was approved on 20 December 2010.

The determination states that an 'Operational Noise and Vibration Review' is required within 3 months of the commencement of operations. The review is to include 'a review of land use planning, and land use changes and the background noise environment within

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areas adjacent to the rail line at the time of the review'.

Council advises that any requirements for noise and vibration attenuation to be provided along the rail corridor by the proponent of the third Track project are likely to influence the intensity and density of land uses that are appropriate.

It is considered that noise and attenuation can be dealt with appropriately at the development assessment stage and once 'Operational Noise and Vibration Review' recommendations are considered by Council.

*MP 09-0006

An expansion of the National Ceramic tile manufacturing facility at Rutherford (increase production from 12.8 million sqm of tiles to 25.6 million sqm of tiles a year) may impact acoustically on the Farley Investigation Area. The Part 3A Application(MP09_0006)is currently being assessed by the Department. Council, in their submission to the Department on 10 August 2010 regarding the Part 3A application stated that in relation to the Farley Investigation Area:

"If the maximum daytime noise threshold of 35dB(A) is maintained under a new consent then the proposed development appears to have some impact on the site, particularly in regards to noise as the 35dB(A) contour encroaches over the northern property boundary most noticeably under temperature inversion conditions and under north-west wind conditions. However, it is noted that the railway line provides potentially a greater noise source to the Farley Investigation Area and the rail noise and vibration issue is undergoing further investigation as part of the rezoning process. As previously mentioned the cumulative relationship between rail noise (existing and proposed) and operational noise from the expanded tile manufacturing plant has not been discussed in the EA."

It is considered that noise and attenuation related to the National Ceramic facility, if approved, can be dealt with appropriately at the development assessment stage.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
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Timeframe to make LEP :	12 Month	Delegation :	DDG
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Public Authority Consultation - 56(2)(d)	Catchment Management Authority - Hunter / Central Rivers Office of Environment and Heritage Energy Australia Hunter Water Corporation NSW Rural Fire Service Roads and Traffic Authority Telstra Other
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Is Public Hearing by the PAC required?	No
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(2)(a) Should the matter proceed ?	Yes
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If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

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If Other, provide reasons :

The planning proposal meets the adequacy criteria, however Council should satisfy consistency with SEPP 55 and s.117 Acid Sulfate Soils. It is noted that the proponent has submitted preliminary geotechnical and contamination report to Council. Council should seek further information or request updated studies to ensure the planning proposal is consistent with SEPP 55 and s.117 Acid Sulfate Soils.

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 : **The Farley Investigation Area is mapped as an urban release area for purposes of state infrastructure funding.**

Documents

Document File Name

DocumentType Name

Is Public

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Additional Information : **The planning proposal should proceed subject to the following conditions:**

1. Council is to consider an acid sulfate soils study in assessing the appropriateness of the change of land use given the possible presence of acid sulfate soils in accordance with s.117 direction 4.1 Acid Sulfate Soils.
2. Council is to consider a contamination study for purposes of consistency with clause 6(1) of SEPP 55.
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 not of low impact as described in A Guide to Preparing LEPs (Department of Planning 2009) and must be made publicly available for 28; 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Australian Rail and Track Corporation
 - Mindaribba Aboriginal Land Council

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- Catchment Management Authority – Hunter / Central Rivers
- Office of Environment and Heritage
- Heritage Branch - Office of Environment and Heritage
- Department of Primary Industries (Agriculture)
- Hunter Water Corporation
- NSW Rural Fire Service
- Roads and Traffic Authority

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).

6. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

7. The Director General is sign off on inconsistencies with Section 117 Local Planning Directions 1.2 Rural Zones and 1.5 Rural Lands as the inconsistencies are justified as the planning proposal is in accordance with the Lower Hunter Regional Strategy (LHRS) which identifies the land as a 'proposed urban area'. The LHRS gives consideration to the objective of this direction.

8. In accordance with Section 117 Direction 4.4 Planning for Bushfire Protection Council is to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination, and prior to undertaking community consultation take into account any comments made by the Commissioner.

9. Council is to revise the planning proposal before exhibition to include mapping of:

- Flood prone land
- Aerial Photo overlaid with proposed zone boundary and / or vegetation mapping
- Category 1 and Category 2 Farley release areas

10. Council is to revise the planning proposal before exhibition to remove references to 'recreational uses' in the statement of objectives

Supporting Reasons :

The proposal is identified as an proposed urban area in the Lower Hunter Regional Strategy, and is consistent with the actions and outcomes of the strategy. The proposal is also consistent with the endorsed Maitland Urban Settlement Strategy 2008.

Further information is required for the Department to establish a more informed view on the details of the proposal generally and to assess consistency with s117 direction 4.1 and SEPP 55 in particular. This information will be obtained from required studies, and through consultation with relevant agencies and the community during exhibition.

Signature:



Printed Name:

Monica Gibson

Date:

7.11.2011