

**10.3 AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN -
REZONING OF FARLEY INVESTIGATION AREA**

File No:	RZ09005
Attachments:	1. Locality Map 2. Planning Proposal (under separate cover on CD)
Responsible Officer:	Bernie Mortomore - Group Manager Service Planning & Regulation Leanne Harris - Project Planner
Author:	Josh Ford - Strategic Town Planner
Maitland 2021	Outcome 7: Diverse and affordable housing
Council Objective:	7.2.1 To ensure land and housing choice is consistent with forecast demographic demand

EXECUTIVE SUMMARY

A draft Local Environmental Plan (LEP) has been prepared for the Farley Investigation Area, in accordance with Council's local planning strategies, directions from the Department of Planning and Infrastructure and the statutory requirements for government agency consultation. The site is identified as a 'Proposed Urban Area' under the Lower Hunter Regional Strategy 2006 (LHRS 2006). The purpose of this report is to inform Council of the results of the environmental assessment and to propose that the planning proposal be submitted to the Department of Planning and Infrastructure for a Gateway determination.

The planning proposal is supported by environmental studies which have involved specific investigation and assessment of a number of matters affecting the subject land. Recommendations from the environmental studies indicate that the site is appropriate for rezoning to urban purposes. The recent approval of the Maitland to Minimbah Third Track project has highlighted uncertainties regarding management of noise, vibration and air quality impacts on land within the northern and eastern portions of the site. Further investigation of these constraints will be required to define the extent of their impact on future urban land within the site. Detailed development controls and area planning will be required to support the urban release area and these are matters that can be addressed through the amendment of the Maitland Citywide Development Control Plan (DCP).

The draft LEP is not inconsistent with any State policies, directions for the preparation of LEPs or regional strategies, and it supports the objectives and targets of the LHRS 2006 and the Maitland Urban Settlement Strategy 2010 (MUSS 2010).

OFFICER'S RECOMMENDATION**THAT**

- 1. The draft LEP for the Farley Investigation Area as detailed in the attached planning proposal be endorsed as an amendment to the Maitland Local Environmental Plan 2011 once gazetted, consistent with Council's resolution dated 10 November 2009.**
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2. Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, the planning proposal be submitted to the Department of Planning and Infrastructure for a Gateway determination, noting that further investigations are required to determine the impacts from the Maitland to Minimbah Third Track project.
3. A further report be presented to Council following the public exhibition period, to demonstrate compliance with the Gateway determination and to provide details of any submissions received throughout that process.

COUNCIL RESOLUTION

THAT

1. The draft LEP for the Farley Investigation Area as detailed in the attached planning proposal be endorsed as an amendment to the Maitland Local Environmental Plan 2011 once gazetted, consistent with Council's resolution dated 10 November 2009.
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Moved Cllr Humphery, Seconded Cllr Garnham

CARRIED

The Mayor in accordance with Section 375A of the Local Government Act 1993 called for a division.

The division resulted in 12 for and 0 against, as follows:

For:	Cllr Baker	Against:
	Cllr Blackmore	
	Cllr Casey	
	Cllr Garnham	
	Cllr Geoghegan	
	Cllr Humphery	
	Cllr Meskauskas	
	Cllr Mudd	
	Cllr Penfold	
	Cllr Procter	
	Cllr Tierney	
	Cllr Wethered	

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Attachments: 1. Locality Map
2. Planning Proposal (under separate cover on CD)

Responsible Officer: Bernie Mortomore - Group Manager Service Planning & Regulation
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Maitland 2021 Outcome 7: Diverse and affordable housing

Council Objective: 7.2.1 To ensure land and housing choice is consistent with forecast demographic demand

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The planning proposal is supported by environmental studies which have involved specific investigation and assessment of a number of matters affecting the subject land. Recommendations from the environmental studies indicate that the site is appropriate for rezoning to urban purposes. The recent approval of the Maitland to Minimbah Third Track project has highlighted uncertainties regarding management of noise, vibration and air quality impacts on land within the northern and eastern portions of the site. Further investigation of these constraints will be required to define the extent of their impact on future urban land within the site. Detailed development controls and area planning will be required to support the urban release area and these are matters that can be addressed through the amendment of the Maitland Citywide Development Control Plan (DCP).

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AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA (Cont.)

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BACKGROUND

The Farley Investigation Area has been identified in the MUSS since 2003, where it was first categorised as a Preliminary Investigation Area. The site is currently a Category 1 residential investigation area in the MUSS 2010, following a resolution of Council in November 2009 to progress the site from Category 2 to Category 1 status under the MUSS 2008. The MUSS 2008 was endorsed by the Department of Planning, with the change in status noted following Council's resolution. The LHRS 2006 identified the area of the site south of Wollombi Road as a 'Proposed Urban Area'.

On 27 July 2010 a report concerning the Farley Investigation Area was included in the agenda, however the item was withdrawn. The current report has the same purpose of progressing the matter to a Gateway determination. Information from previous outstanding environmental studies that was considered important to progressing to a Gateway determination has now been provided to allow the matter to be considered by Council.

The purpose of this report is to provide an assessment of the environmental studies for the Farley Investigation Area and to recommend that a planning proposal be submitted to the Department of Planning and Infrastructure (DoPI). A copy of the planning proposal is included under separate cover. A locality plan detailing the location and extent of the site is included as **Attachment 1**.

POLICY CONTEXT

The LHRS 2006 (p. 27) identifies that between 2006 and 2031 the Maitland LGA is projected to accommodate an additional 21,500 dwellings. It is anticipated that the majority of dwellings will be contained within new urban release areas. The Farley Investigation Area is approximately 175 hectares in size, which is significant in terms of meeting the dwelling projections outlined under the LHRS 2006.

The site was initially identified under the MUSS 2003 as a Preliminary Investigation Area. The LHRS 2006 identified the area of the site south of Wollombi Road as a 'Proposed Urban Area' (LHRS 2006:12). The Farley Investigation Area was identified in the MUSS 2010 as a Category 1 residential investigation area, indicating a 0-5 year development timeframe.

The Activity Centres and Employment Clusters Strategy 2010 (ACECS 2010) identifies that the projected development in Farley is likely to warrant the provision of a new neighbourhood centre in the future, to grow in parallel with future residential development. Any proposal to rezone land for commercial purposes would occur in the future, where growth demanded such provision.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA (Cont.)

The Maitland Greening Plan identifies an “opportunity corridor” for wildlife within the Farley Investigation Area (MGP 2002:53). The purpose of this opportunity corridor is to identify land for priority revegetation (to be undertaken on a *voluntary* basis), which would ideally lead to a suitable habitat for wildlife to traverse other connecting corridors within the Maitland LGA. Opportunities for revegetation within the Farley Investigation Area are plentiful, with much of the remaining areas of Endangered Ecological Communities (EECs) identified as important for regional connectivity of vegetation corridors.

Council’s Maitland Integrated Land Use and Transport Study includes the proposed route of the Southern Bypass (refer to Planning Proposal under separate cover). The Farley Investigation Area is located in a strategically significant area in the context of road networks and the proposed Southern Bypass route within the Maitland LGA.

FARLEY ENVIRONMENTAL STUDIES

Environmental studies were prepared for the Farley Investigation Area with the collaboration and support of landowners. The set of studies submitted to Council has been reviewed and assessed in Section 9 of the planning proposal (under separate cover). In summary, the key recommendations are that while the site does have some constraints, the scale of these is such that they would not be likely to prohibit rezoning of the land to urban purposes. Further detailed planning will be required to address the finer detail of the Farley Investigation Area as part of precinct planning for the site, consistent with other release areas like Thornton North, Aberglasslyn and Gillieston Heights.

Maitland to Minimbah Third Track Project

The MUSS 2008 (p. 87) identifies that “Changes to rail infrastructure may also have an impact on the Farley Investigation Area, and consideration of strategic expansion of the use and movements of the rail corridor should be undertaken in any investigations.” (MUSS 2008:87). Recent approval of the Maitland to Minimbah Third Track project means that the Main Northern Railway Line will have significant impacts on future development within the site, therefore future land uses should reflect the noise constraints by permitting appropriate development within the site, such as permitting less sensitive land uses closer to the railway line. Such planning will be required as part of future precinct planning for the site.

The northern and eastern areas of the site adjoining the rail corridor will require further investigations in association with precinct planning to confirm the actual extent of noise, vibration and emissions that are to be generated from operational movements along the Main Northern Rail Line, given the recently approved Third Rail Track project. A copy of the submission prepared by Maitland City Council regarding the Third Track project is included under separate cover. The submission raises concerns about the potential impacts on urban release areas like Farley, and outlines the planning work undertaken to date for such urban release areas. It also identifies the potential impacts on existing dwellings within the subject site, and existing urban areas in close proximity to Farley, such as Rutherford and Telarah.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA (Cont.)

The Part 3A determination for the Third Track project states that an Operational Noise and Vibration Review (ONVR) is required within 3 months of the commencement of operations, to clarify the data recorded for the Part 3A application for the project. Where noise or vibration exceeds the data recorded to inform the Part 3A project, there may be requirements for ameliorative measures to be provided to limit noise and vibration on land adjoining the rail corridor. The determination also states that the assessment shall include:

“A review of land use planning, any land use changes and the background noise environment within areas adjacent to the rail line at the time of the review.”(Condition 2.16, p. 8)

This requirement indicates that the rezoning of the Farley URA would trigger a review of noise and vibration levels and how they impact on a large *residential* release area which is identified under the LHRS 2006. The Department will be required to consult internally to determine whether any future ONVR does indeed consider the land use change once the Draft LEP is gazetted and the land use change is legally endorsed.

Condition 2.15 of the determination states that the ONVR shall:

“Identify specific physical and other mitigation measures for controlling noise and vibration at the source and at the receiver (if relevant) including location, type and timing for the erection of permanent noise barriers and/or other noise mitigation measures” (p. 8)

Adherence to this condition will ensure that appropriate measures are taken to mitigate the impacts of noise and vibration emitted from the Third Track project.

DRAFT LOCAL ENVIRONMENTAL PLAN

A draft LEP has been prepared to reflect the recommendations of the environmental studies. It is considered that the site is appropriate as an urban release area and for rezoning to urban purposes (including residential, recreational and environmental zones) as shown in the planning proposal. An existing area within the eastern extent of the site that is susceptible to flooding in the AEP 1% flood event is to be retained for rural purposes, reflecting the flooding constraints in this portion of the site and the adjoining rural zone to the east.

Consideration has been given to local planning directions issued by the Minister for Planning (under Section 117 of the Environmental Planning and Assessment Act 1979) as they apply to the draft plan, and there are no known unjustified inconsistencies with these guidelines.

GATEWAY PLANNING PROCESS

If Council resolves to forward the planning proposal to the Department of Planning seeking a Gateway determination, the next step is for the Department of Planning to issue a Gateway determination which will outline the requirements for community consultation, such as the length of exhibition period, any requirements for additional government agency consultation or requirements for additional information. These matters will be reported to Council.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA (Cont.)

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

This matter has no specific policy implications for Council as the draft LEP is consistent with the LHRS 2006, and the MUSS 2010.

STATUTORY IMPLICATIONS

The procedures for the preparation of an LEP under Part 3 of the Environmental Planning and Assessment Act 1979 have been adhered to. The report details the required statutory certification to proceed with public exhibition of the draft LEP.

There are no statutory implications under the Local Government Act 1993 with this matter.

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Service Planning and Regulation Reports

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA

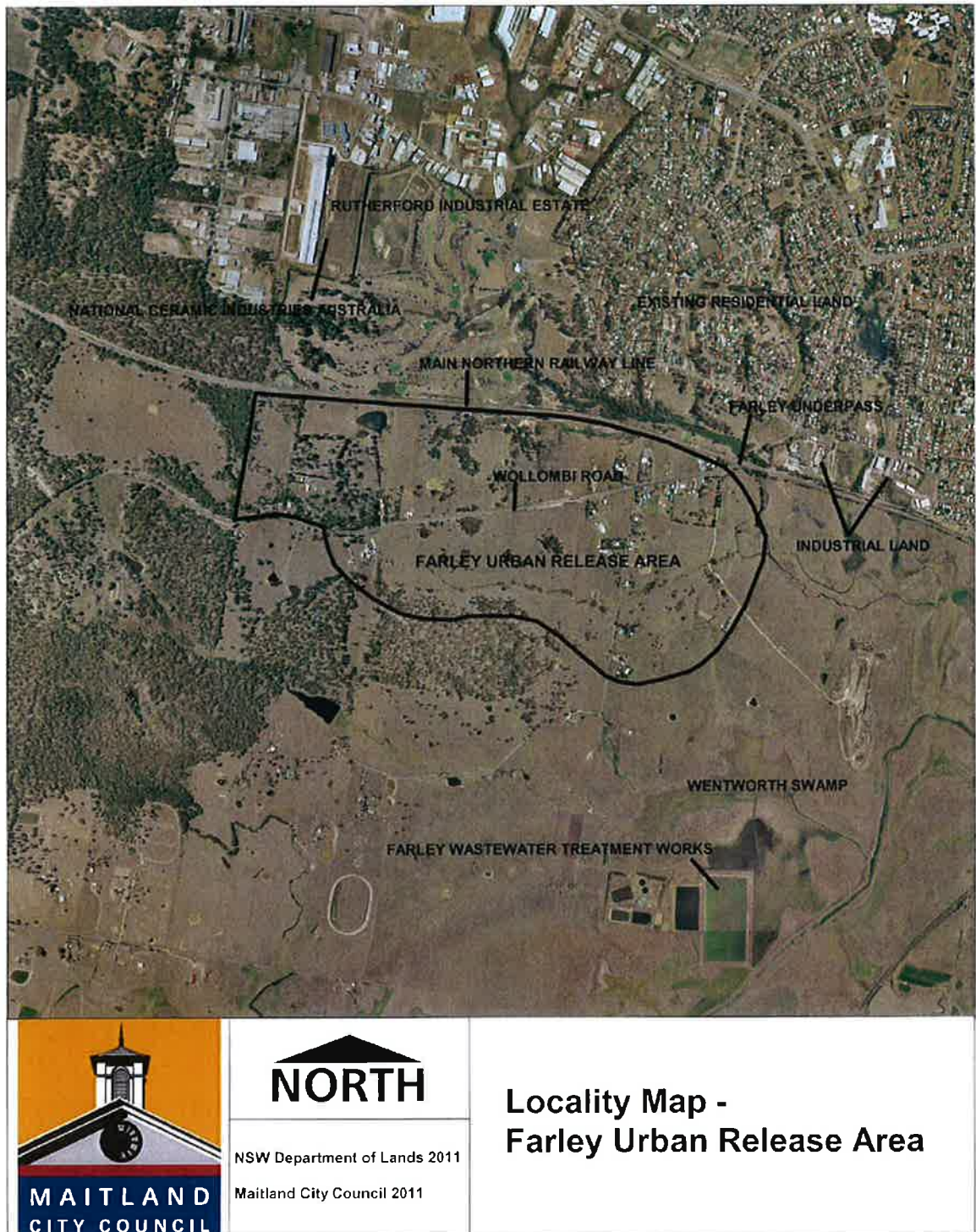
Locality Map

Meeting Date: 27 September 2011

Attachment No: 1

Number of Pages: 1

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA (Cont.)



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Service Planning and Regulation Reports

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN - REZONING OF FARLEY INVESTIGATION AREA

**Planning Proposal (under seperate
cover on CD)**

Meeting Date: 27 September 2011

Attachment No: 2

Number of Pages: