



Planning,
Industry &
Environment

IRF21/3994

Gateway determination report – PP-2021-5854

11 Metford Road, East Maitland – Additional Permitted
Use – Animal Boarding or Training Establishment

October 21



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

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Subtitle: 11 Metford Road, East Maitland – Additional Permitted Use – Animal Boarding or Training Establishment

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal
Maitland City Council Meeting Minutes and Agenda
Planning Proposal Application Form

1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 2 Planning proposal details

LGA	Maitland
PPA	Maitland City Council
NAME	Additional Permitted Use – Animal Boarding or Training Establishment (0 homes, 0 jobs)
NUMBER	PP-2021-5854
LEP TO BE AMENDED	Maitland Local Environmental Plan 2011
ADDRESS	11 Metford Road, East Maitland
DESCRIPTION	Lot 1 on DP1274406
RECEIVED	28/09/2021
FILE NO.	IRF21/3994
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

The objective of the planning proposal is to allow for the site to be used for a primary animal impound facility.

The objective of this planning proposal is clear and adequate.

1.2 Explanation of provisions

The planning proposal seeks to amend the provisions for land at 11 Metford Road, East Maitland by amending Schedule 1 of the *Maitland Local Environmental Plan 2011* to allow for additional permitted use on the site to be permitted for an ‘Animal boarding or training establishment’, subject to development consent.

An ‘Animal boarding or training establishment’ is defined as:

A building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.

The planning proposal enables Council to operate a primary impound facility which is currently prohibited in the RE1 Public Recreation zone.

It is noted that ‘Animal boarding or training establishment’ is permitted with consent in the RE1 Public Recreation zone in *Lake Macquarie Local Environmental Plan 2014*.

1.3 Site description and surrounding area

The planning proposal applies to land at 11 Metford Road, East Maitland (Lot 1, DP1274406). The site has an area of 5,743m², is zoned RE1 Public Recreation and contains an existing Council-owned administration building, animal holding facilities, and other associated infrastructure. The land is classified as operational.

The site is shown in **Figure 1** below.



Figure 1 Subject Site (Source: Planning Proposal)

The site is located on the eastern side of Metford Road and is adjacent to the East Maitland Golf Club. To the north of the site is predominantly vegetated landscape and the Metford Soccer Field. To the south, includes wetlands and a water treatment facility.

The closest residential properties are approximately 380m to the north west located behind the Golf Club.

The surrounding land rises to the north west and is low-lying to the east.



Figure 2 Site Context (Source: NSW Planning Portal)

1.4 Background

The site is zoned RE1 Public Recreation under the *Maitland Local Environmental Plan 2011*.

The site has been used since the 1960s as a public administration building for Council rangers and an animal shelter.

The site was previously zoned 5(a) Special Uses under Maitland Local Environmental Plan 1993 which permitted 'development as indicated on the map and any development ordinary incidental or ancillary to'. The permissible land use indicated on the map being a 'pound' (Figure 3).



Figure 3 Extract map from Maitland LEP 1993

When the LEP transitioned to the Standard Instrument, an RE1 Public Recreation zone was applied as a 'public administration building' was permissible with consent and considered reasonable for the use of the site at the time. The primary use being a public administration building and ancillary use as an animal shelter.

The planning proposal notes that it is intended to use the site “as a primary animal impound facility for Maitland City Council” at a scale beyond the ancillary nature of the use on which it currently relies. The planning proposal therefore seeks to include ‘Animal Boarding or training establishment’ as an additional permitted use for the site.

1.5 Mapping

The planning proposal does not include amendments to mapping.

2 Need for the planning proposal

The planning proposal is not a result of any local strategic planning statement, strategic study or report.

The proposed use is prohibited within the RE1 Public Recreation zone. However, the planning proposal notes the historic use of the site as an animal shelter / pound and, whilst not currently operating, Council’s intends to recommence using the site as a primary animal impound facility.

The planning proposal is considered the best means of achieving the objectives and intended outcomes. A planning proposal is the only means available to amend relevant provisions under the *Maitland Local Environmental Plan 2011*.

3 Strategic assessment

3.1 Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* is a 20-year blueprint for the future of the Hunter. The vision is to create a leading regional economy in Australia, with a vibrant metropolitan city at the heart.

An assessment of the planning proposal against the relevant actions of the *Hunter Regional Plan 2036* is included in **Table 3**.

Table 3 Regional Plan assessment

Regional Plan Direction	Justification
Direction 13: Plan for Greater land use compatibility	The planning proposal notes it is consistent with Direction 13, and specifically Action 13.3 which seeks for planning controls to be amended to deliver greater certainty for land uses. The planning proposal provides greater certainty for Council’s animal shelter services on the site and provides infrastructure and services to growing communities in the area.
Direction 26: Deliver Infrastructure to support growth and community	The planning proposal supports utilising existing infrastructure to support the ongoing operation of Council’s animal shelter services.

3.2 Greater Newcastle Metropolitan Plan

The *Greater Newcastle Metropolitan Plan 2036* sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle.

The planning proposal seeks to formalise the existing use and enable expansion of the operations on the site and is broadly consistent with the objectives and strategies of the GNMP.

3.3 Local

The planning proposal is consistent with the following local plans and endorsed strategies:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Maitland Local Strategic Planning Statement	<p>The planning proposal is consistent with the following priorities of the Maitland Local Strategic Planning Statement:</p> <ul style="list-style-type: none"> Planning Priority 17: Providing good quality, accessible and appropriate community infrastructure across the city. Planning Priority 18: Work collaboratively to deliver infrastructure and services to support the planned growth

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5: 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.3 Heritage Conservation	Inconsistency considered minor	<p>The site is not heritage listed or within a conservation area. An AHIMS search has been conducted that did not reveal any Aboriginal objects or places on the site.</p> <p>The planning proposal seeks to introduce an additional permitted use that generally reflects the historical use of the site. Any potential for impact and subsequent inconsistency with the direction is considered minor and justified.</p> <p>Council may wish to consult with the Local Aboriginal Land Council to confirm whether the site contains Aboriginal objects or places, however this will not be required as a condition on the Gateway determination.</p>
2.6 Remediation of Contaminated Land	Consistent	<p>The planning proposal addresses contamination matters under consideration of SEPP 55.</p> <p>Council has considered whether the land is contaminated in accordance with the considerations of the direction and is satisfied the</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>land is suitable for expansion of the existing operations on the site.</p> <p>The planning proposal is consistent with the direction.</p>
3.4 Integrating Land Use and Transport	Consistent	<p>The objective of this direction is to improve access to housing, jobs and services by walking, cycling and public transport, and reduce dependence on cars.</p> <p>The planning proposal is consistent with this direction as there are a number of existing bus services and bus routes within proximity to the site.</p> <p>Notwithstanding the historical use of the site as an animal shelter, the site is located in a relatively remote location that makes it more suitable for use as an animal impound facility from a land use conflict and amenity perspective. This does have implications for its accessibility however, it is still within walking distance to a bus service to the north.</p> <p>Accessibility to the site, including the need for footpaths and other services to access the site can be considered through a future Development Application.</p>
4.1 Acid Sulfate Soils	Inconsistency considered minor	<p>This direction needs to be addressed when a planning proposal applies to land that contains acid sulfate soils.</p> <p>The site is mapped as potentially containing Class 5 Acid Sulfate Soils and adjacent to Class 3 soils.</p> <p>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines in its preparation and not intensify land uses without an acid sulfate soil study assessing the impacts of the use.</p> <p>Council notes the works are unlikely to require significant excavation, drainage or groundwater extraction and as such is not expected to impact upon Acid Sulfate Soils.</p> <p>Given the <i>Maitland Local Environmental Plan 2011</i> provides provisions to assess Acid Sulfate Soil impacts at the Development Application stage, inconsistency with the direction is considered of minor significance.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.3 Flood Prone Land	Consistency to be determined	<p>Part of the site is identified as flood prone. Council has identified a qualitative flood assessment will be undertaken to determine the flood risk to the site and whether the proposed additional permitted use will create an adverse impact on the existing flood behaviour.</p> <p>In this instance, requiring preparation of a flood assessment to demonstrate consistency with the direction or justify any inconsistency is considered reasonable.</p>
4.4 Planning for Bushfire Protection	Consistency to be determined	<p>The planning proposal notes the site is bushfire prone but is not supported by a Strategic Bushfire Study to assess bushfire hazard in accordance with Planning for Bushfire Protection 2019.</p> <p>Therefore, preparation of a Strategic Bushfire Study and consultation with NSW Rural Fire Service is recommended prior to public exhibition.</p>
5.10 Implementation of Regional Plans	Consistent	<p>The objective of the direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The proposal is consistent with the provisions of the Hunter Regional Plan. Refer to Section 3.1 of this report.</p>
6.3 Site Specific Provisions	Consistent	<p>The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p> <p>Whilst 'Animal boarding or training establishment' could be included as permitted with consent across any land zoned RE1 Public Recreation, there is demonstrated site-specific merit for the application of an additional permitted use for this site.</p> <p>The planning proposal is consistent with this direction as it enables the proposed additional permitted land use for the site without any additional development standards to those already in the principal LEP.</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 3 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Proposal	Complies
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SEPP (Koala Habitat Protection) 2021	The SEPP requires any development application to be determined by Council must be consistent with an approved koala plan of management that applies to the land.	The planning proposal does not include reference to the SEPP and should be updated prior to exhibition to demonstrate that it complies.	TBD
SEPP No. 55 Remediation of Land	The objective of this SEPP is to provide for a state-wide planning approach to the remediation of contaminated land.	With the amendment to the SEPP 55, there is no requirement to consider the compliance with this policy at the rezoning stage. Instead, the relevant considerations at the rezoning stage will be achieved through the assessment against section 9.1 Direction 2.6 Remediation of Contaminated Land as outlined above.	N/A

Other SEPPs are considered not applicable due to their application at the Development Application stage.

4 Site-specific assessment

4.1 Environmental, Social and Economic

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 4 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	The site is located in predominantly bushland and a low-lying setting. No assessment of the biodiversity values or constraints of the site has been undertaken including the impact of animal boarding on any potential sensitive habitat or species in the area. Given the <i>Maitland Local Environmental Plan 2011</i> provides provisions to assess the impacts of the potential land use on the environment or biodiversity values, it is considered the potential impacts can be managed and assessed at the Development Application stage.
Traffic and Transport	No traffic assessment has been provided as part of the planning proposal. However, the site contains existing access and parking. Any potential expansion of the site will be assessed at the Development Application stage.
Noise, Odour and Amenity	The site is located in an area separated from other land uses that may be impacted by noise and odour associated with the proposed use. Any potential expansion of the animal boarding services on the site and associated amenity impacts can be assessed at the Development Application stage.

5 Consultation

5.1 Community

Council proposes 28 days of community consultation.

The exhibition period proposed is considered appropriate, and forms part of the conditions of the Gateway determination.

5.2 Agencies

The planning proposal recommends consultation with the following agencies:

- NSW Rural Fire Service; and
- Mindaribba Local Aboriginal Land Council.

Given the longstanding use of the site and the outcome of the AHIMS search, agency consultation with Mindaribba LALC will not be included as a condition of the Gateway. Notwithstanding, Council may wish to consult with Mindaribba LALC.

6 Timeframe

Council anticipates making of the plan by May 2022 and notification of the plan by July 2022. The project timeline does not factor in a timeframe to complete additional studies nor does it provide sufficient time for finalisation. The recommended Flood Assessment and Strategic Bushfire Study may also impact on the commencement of public exhibition.

The timeframe should therefore be extended to 10 months following the Gateway determination (September 2022) with public exhibition to commence by 1 March 2022.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal relates to Council owned/operated assets, it would not be appropriate for Council to exercise Plan-Making delegations for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposed amendment will facilitate recognition of the existing operations and to support expansion of an existing facility in a location where potential adverse amenity impacts can be appropriately assessed at the development application stage.

9 Recommendation

It is recommended that the delegate of the Secretary:

1. note the inconsistencies with section 9.1 Ministerial directions 4.3 Flooding and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to public exhibition, the planning proposal is to be updated to:

- (a) include a Flood Assessment;
 - (b) include a Strategic Bushfire Study; and
 - (c) include consideration of SEPP (Koala Habitat Protection) 2021.
2. The planning proposal must be made available for public exhibition for a minimum of 28 days in accordance with the guide to preparing local environmental plans.
 3. The planning proposal must commence public exhibition by 1 March 2022.
 4. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 5. The timeframe for completing the LEP is to be 10 months following the Gateway determination.
 6. Council should not be authorised to be the local plan-making authority.



27 October 2021

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