

PLANNING PROPOSAL

Amendment to the Maitland LEP 1993

RECLASSIFICATION OF LAND FROM COMMUNITY TO OPERATIONAL TO FACILITATE THE PROPOSED EXTENSION OF CHELMSFORD DRIVE

*(part of Lot 7 DP831327, part of Lot 250 DP835549, part of Lot 22 DP591803 –
land located between New England Highway and Molly Morgan Drive, East
Maitland)*

Prepared by:
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INTRODUCTION

In accordance with cl. 55 of the Environmental Planning and Assessment Act 1979, this planning proposal has been prepared to allow for the preparation of an LEP amendment to reclassify Council owned land from community land to operational land. The LEP amendment is intended to facilitate the construction of a new link road in association with the proposed expansion of the Green Hills Retail Precinct.

Traffic management has been identified as a key consideration in the assessment of a Development Application for the expansion and redevelopment of the Stocklands Green Hills shopping centre. The reclassification of the subject land would enable the development of an appropriate traffic management solution for the project should the proposed development be supported by Council.

Whilst various traffic management options are still being reviewed, the construction of a link road within this location is considered to be an appropriate and desirable solution for improved traffic conditions and access to the highway, should the redevelopment proposal be supported.

It is necessary to prepare the amendment to Maitland LEP 1993 to ensure the land is available, if required, upon completion of the assessment of the Development Application. In order for conditions relating to the construction and dedication of the road to be placed on any development consent should it be granted for the proposal, the land is required to be classified as 'operational land' under the Local Government Act 1993. Should the development proposal not proceed at this stage, the land may be made available for a future potential road link if identified by Council. As the proposal does not involve a change to the zoning of the land, the LEP amendment can transfer directly across into the MLEP 2011 once gazetted.

PART 1: OBJECTIVES and BACKGROUND

The purpose of this planning proposal is to notify Council's intention for the reclassification of land from 'community land' to 'operational land' in order to accommodate a future potential road link in association with the proposed expansion of the Green Hills retail precinct. Council has endorsed the proposal in principle as the owner of the land, subject to the necessary environmental assessment and rezoning procedures being undertaken.

PART 2: EXPLANATION of PROVISIONS

The objectives of the proposed amendment will be achieved through an addition to the wording of cl. 5(1) and to the table in Schedule 4 of clause 51 of the Maitland LEP 1993.

This planning proposal applies to part Lot 22 DP 591803, part Lot 250 DP835549, and part Lot 7 DP831327, and comprises land between the New England Highway and Molly Morgan Drive, East Maitland, as shown edged heavy black on Sheet 1 of the map marked "Maitland Local Environmental Plan 1993 (Amendment No. X)".

The Maitland Local Environmental Plan 1993 is proposed to be amended by inserting in appropriate order the following:

[1] Clause 4 – Interpretation

At the end of the definition of “**The map**” in clause 5(1), insert:

Maitland Local Environmental Plan 1993 (Amendment No X) – Reclassification of land from community to operational to facilitate the proposed extension of Chelmsford Drive.

[2] Clause 51 – Classification and Reclassification of Public Land as Operational

Insert in alphabetical order in Schedule 4, under Part 3 Interests changed:

Column 1	Column 2	Column 3
Locality	Description	Trusts etc not discharged
East Maitland		
New England Highway and Molly Morgan Drive	Lot 7 DP831327, and Lot 250 DP264015, and Lot 22 DP591803, as shown edged heavy black on the map marked “Maitland Local Environmental Plan 1993 (Amendment No. X)” – <i>Maitland Local Environmental Plan 1993 (Amendment No X)</i> . RZ10/013	Nil

The proposed LEP amendment is required to progress under the current plan (MLEP 1993) in conjunction with the assessment of a Development Application presently before Council for consideration. The proposed reclassification will create the legal planning platform for the imposition of development consent conditions in the event that the application is supported and that the Chelmsford Drive road link is identified as the most appropriate traffic management solution for the development.

The LEP amendment does not involve the rezoning of land. Upon gazettal of MLEP 2011 this LEP amendment can transfer directly across from the MLEP 1993.

PART 3: JUSTIFICATION for PROPOSED REZONING

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 proposal;
- Section B: Policy Context;
- Section C: Potential Environmental, Social and Economic impact; and
- Section D: Other Government Interests.

Section A – NEED for the PLANNING PROPOSAL

1. Resulting from a Strategic Study or Report

The NSW Government's **Lower Hunter Regional Strategy** (Department of Planning, 2006) establishes a regional hierarchy of urban centres for the Lower Hunter. The strategy identifies Greenhills as a Stand Alone Shopping Centre, recognising the concentrated retail and specialised function that Greenhills provides the Maitland LGA and the wider region. It supports the growth of such centres as a focus for social and economic activity at a regional scale.

The **Activity Centres and Employment Clusters Strategy** was prepared and adopted by Council in January 2010 to manage economic and social growth over the next 20 years. Council's strategy builds on the regional hierarchy and provides a clear definition as to the vision, role and function of activity centres and corridors across the LGA. Greenhills Retail Precinct is identified as a Specialist Precinct within this strategy. One of the Key Policy Objectives for the future growth of the Greenhills Retail Precinct identifies the need for adequate traffic management and car parking levels to be provided to ensure easy access to the precinct and reduce traffic congestion within the locality. The strategy also recognises that there is potential for significant expansion of this precinct in the future to accommodate demand from the local Maitland community and the wider regional community. It identifies that it is critical that this growth is in proportion and adequately responds to the demands on traffic, public transport, and residential areas to ensure the viability and vitality of activity centres is maintained.

The planning proposal will assist to facilitate the growth of Greenhills as a Stand Alone Shopping Centre as identified by and consistent with the Lower Hunter Regional Strategy. It will also enable the provision of public infrastructure to improve the management of traffic generated by the retail precinct.

The planning proposal for the reclassification of Council owned land was identified as part of a traffic management solution in response to issues arising through the assessment of a Development Application. Options for the exact location and design of the proposed roadworks are still being developed and will require further modelling to ensure the best outcome is achieved.

Council's **draft Integrated Land Use and Transport Study (July 2009)** has also identified the location of the corridor as a potential road link for the future growth and development of the Green Hills retail/commercial precinct. Should the current Development Application for the proposed retail expansion not be supported by Council in this instance, the potential road link will be available to support future development in this locality.

2. Planning Proposal as best way to achieve the objectives

The proposed link road, if identified as the preferred traffic management option, will need to cross land currently zoned 6(a) Public Recreation and classified as Community Land under the Local Government Act 1993. Council will not be in a position to impose consent conditions relating to the construction of the link road unless the land is reclassified as Operational Land. The land does not require a change to the zoning of the land as the use of land for the construction and development of roads does not require development consent under the provisions of Maitland LEP 1993.

It is considered that an amendment to the Maitland LEP 1993 through the gateway process and preparation of this planning proposal is the most effective and timely method to resolve the traffic management issues arising from the consideration of a Development Application for the expansion and redevelopment of a significant retail precinct within the Maitland Local Government Area.

The expansion of the Green Hills retail precinct is consistent with Council's Activity Centres and Employment Clusters Strategy and also the NSW Government's Lower Hunter Regional Strategy for the growth of urban centres in the Lower Hunter. This amendment will ensure that adequate and appropriate infrastructure can be provided to support the function of this precinct.

Although Council is currently preparing the Maitland LEP 2011, the reclassification of the land at this stage will enable the assessment and determination of a Development Application for the substantial expansion of an identified retail precinct in Maitland to progress.

3. Net Community Benefit

Council envisages that this proposal will result in a net community benefit. While the demand for the Chelmsford Drive extension is driven by the redevelopment of the Stocklands retail centre, the broader Green Hills retail/commercial precinct will derive benefit from the proposal in the form of improved traffic conditions and access to the highway. It will also potentially reduce congestion along the New England Highway by providing a direct crossing of the highway and utilising non-arterial roads for local routes, reducing turning movements off the highway, and thereby supporting the free flow of through traffic on the State Highway.

While the potential environmental impacts of a road corridor in this location have not yet been fully identified or assessed and will be subject to more detailed investigations, the proposed reclassification does not reduce the practical usability of the land for community purposes given its function as either a drainage reserve or highway buffer. The residue land would remain unaffected by the proposed reclassification.

The area of land the subject of the planning proposal totals approximately 1.8ha. It is envisaged that a possible road design will occupy around 9000m² of this area. Council's Review of Open Space and Recreation (2007) identifies that the City of Maitland has a total of 849.2 hectares of Public Land to manage, which represents approximately 13.8 hectares per 1000 people (as at March 2006). The planning proposal will affect approximately 0.2% of public land within the City, and approximately 0.8% of public land identified for drainage purposes.

In the event that the subject land is reclassified and the extension of Chelmsford Drive does not proceed, then the subject land would remain in Council's ownership and its use remain unchanged. The current 6(a) Public Recreation zoning of the land is to remain and is proposed RE1 zoning under the draft MLEP 2011. The physical limitation of the land would be a constraining factor to its disposal and use for another purpose.

Section B –RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy (NSW Dept of Planning) – October 2006

The planning proposal is consistent with the regional hierarchy of urban centres identified by the regional strategy for the Lower Hunter. The strategy identifies Greenhills as a Stand Alone Shopping Centre, and recognises the function that Greenhills provides the Maitland LGA and the wider region. It supports the growth of such centres as a focus for social and economic activity at a regional scale.

Council has supported the proposed reclassification of the land in principle as the owner of the land to enable more traffic management options to be explored to cater for the increased traffic associated with the future expansion of the Green Hills retail precinct.

This planning proposal will allow the consideration of this corridor as one of the traffic management options, and thereby support the directions of the regional strategy.

5. Consistency with Council's Community Strategic Plan or other Local Strategic Plan

Council is currently preparing a draft community strategic plan in line with the new Integrated Planning and Reporting legislation and guidelines. In regards to land use strategies, the following documents provide the appropriate strategic policy framework to support this planning proposal.

Maitland Activity Centres and Employment Clusters Strategy – January 2010

The purpose of the Maitland Activity Centres and Employment Clusters Strategy is to provide a logical hierarchy and network of centres and clusters which support the growth of the local economy and employment in Maitland. Green Hills Shopping Centre is identified within the strategy as a specialist retail precinct supported by extensive car parking, which recognises the requirement for high accessibility by vehicles.

The vision for this centre is that Green Hills will continue to be a regionally significant retail precinct within the Lower Hunter. Future development will ensure that adequate car parking is provided and connections to public transport is maximised.

The land the subject of the planning proposal is identified as an opportunity to provide an improved road link to service and support the increased traffic associated with the future growth of the retail precinct.

The planning proposal is consistent with the Activity Centres and Employment Clusters Strategy as it aims to facilitate the growth and development of the identified regionally significant retail precinct and would enable an improved access arrangement for the centre to reduce the impact of transport movements on the New England Highway.

Maitland Integrated Land Use and Transport Study – July 2009 (draft)

The purpose of the City wide Integrated Land Use and Transport Study is to establish the capacity of the existing route system to accommodate the expected population growth with consideration to land use planning for the area. The strategy forms part of a suite of studies to inform the plan making process for the new LEP.

The strategy offers a traffic management option for the extension of Chelmsford Drive to Molly Morgan Drive for access to the Greenhills Precinct. This is based on the projections for both Council's Activity Centres Strategy and the Lower Hunter Regional Strategy for future growth and development of the Green Hills retail/commercial precinct.

Should the current Development Application for the proposed retail expansion not be supported by Council in this instance, the potential road link will be available to support future development demands in this locality.

6. Consistency with applicable State Environmental Planning Policies (SEPPs)

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP No. 21 – Caravan Parks	Encourages proper management and development of land for caravan parks. Caravan parks are a permissible use in Zone 6(a) Public Recreation in Maitland LEP 1993.	The land has not been identified for the purposes of a caravan park. The planning proposal is not inconsistent with the aims and provisions of this SEPP.
SEPP 44 Koala Habitat Protection	Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.	An assessment of the vegetation to provide potential or core koala habitat on the site should be considered in conjunction with any Development Application.
SEPP No. 55 – Remediation of land	Promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment.	The planning proposal is for the reclassification of land to facilitate the potential construction of a road. The proposal is not inconsistent with the provisions of this SEPP.
SEPP No. 60 – Exempt and Complying Development	Provides for exempt and complying development. There are no provisions for exempt and complying development in the Maitland LEP 1993.	The planning proposal is not inconsistent with this SEPP.
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. It also allows for the efficient development of government owned land.	The planning proposal to support the provision of the road is consistent with the aims and provisions of this SEPP.

7. Consistency with applicable s.117 Ministerial Directions

There is no s.117 Ministerial Directions that the proposed development is inconsistent with. An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table Two: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of the Direction	Consistency and Implications
EMPLOYMENT and RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth, protect employment land in business zones and support the viability of identified strategic centres.	This planning proposal aims to support the growth of an identified retail precinct by identifying land for the construction of a road to assist with resolving traffic management issues.
1.2 Rural Zones	This Direction does not apply to the planning proposal	
1.3 Mining, Petroleum Production and Extractive Industries	This Direction does not apply to the planning proposal	
1.4 Oyster Aquaculture	This Direction does not apply to the planning proposal	
1.5 Rural Lands	This Direction does not apply to the planning proposal	
ENVIRONMENT and HERITAGE		
2.1 Environment Protection Zones	To protect and conserve environmentally sensitive areas.	No environmental protection zoning is proposed. The planning proposal will not change the current zoning of the land from 6(a) Public Recreation and proposed RE1 under the draft MLEP 2011.
2.2 Coastal Protection	This Direction does not apply to the planning proposal	
2.3 Heritage Protection	To facilitate the conservation of environmental and indigenous heritage significance	A heritage assessment will be required to be provided to satisfy this direction should gateway determination be granted, and prior to consultation
2.4 Recreation Vehicle Areas	To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	The planning proposal is not affected by this direction
HOUSING, INFRASTRUCTURE and URBAN DEVELOPMENT		
3.1 Residential Zones	This Direction does not apply to the planning proposal	
3.2 Caravan Parks and Manufactured Home Estates	To provide for a variety of housing types and provide opportunities for caravan parks and manufactured home estates.	Caravan sites are permitted on 6(a) Public Recreation zoned land. The subject land has however not been identified as a suitable location for a caravan park or manufactured home estate. The planning proposal is not affected by this direction.

3.3 Home Occupations	To encourage the carrying out of low-impact small businesses in dwelling-houses.	The planning proposal is not affected by this direction
3.4 Integrating Land Use and Transport	This Direction does not apply to the planning proposal	
3.5 Development Near Licensed Aerodrome	This Direction does not apply to the planning proposal	
HAZARD and RISK		
4.1 Acid Sulphate Soils	To avoid significant adverse environmental impacts on development	The planning proposal relates to land identified as having class 5 acid sulfate soils under the draft MLEP 2011. The DLEP will be consistent with the provisions of this direction should gateway determination be granted.
4.2 Mine Subsidence and Unstable Land	This Direction does not apply to the planning proposal	
4.3 Flood Prone Land	This Direction does not apply to the planning proposal	
4.4 Planning for Bushfire Protection	To encourage the management of bushfire prone areas and to protect life, property and the environment from bushfire hazards.	The planning proposal is located on land containing Vegetation Category 1 Bushfire Prone Land. The DLEP will consider the bushfire risks of the proposed development should gateway determination be granted.
REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The planning proposal is consistent with the Lower Hunter Regional Strategy which applies to the land.
LOCAL PLAN MAKING		
6.1 Approval and Referral	To encourage the efficient and appropriate assessment of development.	The DLEP will be consistent with the terms of this direction

6.2 Reserving Land for Public Purpose	To ensure the availability of land for public purposes.	The planning proposal is located on land identified for community use. The land is used for passive recreation and contains a drainage corridor and native vegetation identified as EEC. Whilst contributing towards a minor loss in public recreation lands, the DLEP aims to achieve a broader net community benefit by permitting the construction of a road to assist with the management of through-traffic on the state highway by directing local traffic onto the local road network. The DLEP is being prepared on an as-needs basis until Council's strategic review of community and recreation open space lands is undertaken. The planning proposal relates to approximately 0.2% of public open space across the City and will not impact upon the current function of the land. The DLEP will be consistent with the terms of this direction and follow the procedures for Council owned land.
6.3 Site Specific Provisions	This Direction does not apply to the planning proposal	

Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT

8 & 9. Environmental Impact (existing and as a result of the proposal)

The land is located between the New England Highway (State Highway No.1) and Molly Morgan Drive which serves as one of the main routes servicing the Green Hills retail/commercial/health precinct. The site is bounded by commercially zoned and developed land to the west and residentially zoned and developed land to the east. An existing concrete pedestrian pathway runs through the site connecting Molly Morgan Drive with the pedestrian traffic signals on the New England Highway/Chelmsford Drive. The site has no other active community function such as a park.

Two Mile Creek runs through the site. The land is principally a drainage corridor and reserve for the open creek system. A minor drainage channel running between the adjoining medium density housing development also connects to this corridor. Preliminary discussions held with the Department of Environment Climate Change and Water (DECCW) advise that the protection and maintenance of water quality and hydraulic performance of the creek are important, along with the possible enhancement of the riparian corridor. Further investigations and consultation will be undertaken to determine the potential environmental impacts associated with development within this drainage corridor.

The site contains mature vegetation in the form of Lower Hunter Spotted Gum Ironbark Forest which is identified as an Endangered Ecological Community (EEC) under the Native Vegetation Act. The reclassification of land to permit the proposed road link has the potential to remove part of this vegetation community. In conjunction with the vegetation it is likely that fauna communities may also be impacted upon by development in this location. A detailed environmental assessment will be required to be submitted to determine the potential impacts of such a proposal.

The subject land adjoins residential housing to the east. The planning proposal and the resultant proposed road link has the potential to impact on the adjoining residential properties by way of traffic related noise and lighting. While the design and location of the potential link road has not been determined, the traffic management options will be required to include an acoustic assessment to determine the level of impact on the nearest residences and identify any potential noise mitigation measures.

It is expected that the detailed environmental assessments will be provided and assessed concurrently with the proposed reclassification and the development assessment process for the proposed expansion of the retail outlet which is generating the need for upgraded traffic management of the locality. The final options for the design and location of the road within this corridor have not yet been determined and will be dependant upon government and community consultation and further traffic modelling.

10. Social and Economic Impacts

The planning proposal has the potential to provide a net community benefit to the locality by way of improved traffic management both on the highway and locally. It aims to separate the local traffic from the highway environment by directing users onto direct local routes to the main retail precinct in the locality. Congestion at the intersections on the highway are expected to be subsequently reduced for through traffic including heavy vehicles.

There are currently limitations in the capacity of the road network surrounding the Green Hills precinct that potentially constrain the expansion of the Stocklands retail complex. The provision of an improved road network will assist with the management of traffic generated by the proposed retail expansion and thereby provide an economic benefit to the greater region.

The reclassification of the land is not likely to reduce the practical usability of the land for community purposes given its function as either a drainage reserve or highway buffer. The residue land would remain unaffected by the reclassification. In the event that the subject land is reclassified and the extension of Chelmsford Drive does not proceed, then the land is proposed to remain in Council's ownership and its current use remain unchanged. The land is currently zoned 6(a) Public Recreation and similarly is proposed as RE1 under the draft Maitland LEP 2011. The physical limitations of the land would be a constraining factor to its future disposal and use for another purpose should the request arise.

The loss of a small portion of public reserve is not considered likely to have a significant social and/or economic impact on the surrounding community or the broader Maitland community, providing the environmental issues identified are adequately assessed and where necessary, mitigation measures are implemented.

Section D – STATE and COMMONWEALTH INTERESTS

11. Adequate Public Infrastructure

The planning proposal aims to create the legal platform for Council to provide, or require to be provided, an improved level of public infrastructure by way of a public road. Therefore this planning proposal is not considered likely to place additional demands on the existing public infrastructure.

12. Consultation with State and Commonwealth Authorities

Extensive consultation has occurred to date with the NSW Roads and Traffic Authority concerning various traffic management options for the Green Hills precinct in conjunction with the assessment of the current development application. The RTA have given in principle support to the modelling of two traffic management options, one which involves the construction of a new road over the subject land. A final decision on the preferred option will not be made until traffic modelling has been conducted and the results reviewed as part of the Development Application process. The decision will also be dependent upon the receipt of a gateway determination to enable the reclassification of community land for the purposes of the construction of a road. The exact location and design of the potential road will also require further consideration.

Preliminary discussions have also been held with the Department of Environment Climate Change and Water (DECCW) in relation to the proximity of the proposed roadworks to the Two Mile Creek corridor. Further consultations will be necessary with this Department following the submission of detailed drainage investigations to determine potential water quality/quantity and riparian corridor impacts, and mitigation measures.

Further consultation with the following government agencies will occur:

- Roads and Traffic Authority
- Department of Environment Climate Change and Water
- Mindaribba Local Aboriginal Land Council

PART 4: COMMUNITY CONSULTATION

In accordance with cl. 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority. The planning proposal is required to be exhibited for a period of 28 days as it involves the reclassification of public land. A public hearing is also required to be held at the completion of the exhibition period in accordance with the Act for the reclassification of 'community land' to operational land'.

In accordance with Council's adopted *Community Engagement Strategy (March 2009)*, consultation on the proposed rezoning will be to inform and receive limited feedback from interested stakeholders. To engage the local community the following will be undertaken:

- Notice in the local newspaper;

- Exhibition material and relevant consultation documents to be made available at the Central Maitland and East Maitland Branch Library and Council's Administration Building;
- Consultation documents to be made available on Council's website; and
- Letters, advising of the proposed rezoning and how to submit comments will be sent to adjoining landowners and other stakeholders that Council deem relevant to this planning proposal.

At the completion of the consultation process, including the public hearing, Council officers will consider all submissions received and present a report to Council for their endorsement of the proposed reclassification before proceeding to finalisation of the amendment.

The consultation process, as outlined above does not prevent any additional consultation measures that may be determined appropriate as part of the 'Gateway' determination process.

Appendix ONE

Location Map

Appendix TWO

Proposed Reclassification Map

Appendix THREE

Indicative Layout of Proposal

Appendix FOUR

Council Report and Resolution

27 July 2010

Appendix FIVE

Extracts from relevant strategies:

- Lower Hunter Regional Strategy (2006)
- Maitland Activity Centres and Employment Clusters Strategy (2010)
- Maitland *draft* Integrated Land Use & Transport Study (2009)