

### Housekeeping LEP 2012

Proposal Title : **Housekeeping LEP 2012**

Proposal Summary : **This planning proposal (PP) is a housekeeping LEP amendment, generally correcting errors, misdescriptions and mapping anomalies that have been identified since the Maitland LEP 2011 was made.**

**In total there are 16 items that would be addressed by this PP.**

PP Number : **PP\_2013\_MAITL\_003\_00**

Dop File No : **13/10111**

### Proposal Details

Date Planning Proposal Received : **17-Jun-2013**

LGA covered : **Maitland**

Region : **Hunter**

RPA : **Maitland City Council**

State Electorate : **MAITLAND**

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

LEP Type : **Housekeeping**

### Location Details

Street : **5 Cabarita Close**

Suburb : **Bolwarra Heights**

City :

Postcode : **2320**

Land Parcel : **lot 6 DP 840997**

Street : **Junction Street**

Suburb : **Telarah**

City :

Postcode : **2320**

Land Parcel : **Lots 2, 3 & 4 DP 1094495; Lot 101 DP1147030; Lot 1 DP1094040; Lot 645 DP862455; Lot 2 DP198486; Lot 631 DP1094447**

Street : **Junction Street**

Suburb : **Mount Dee**

City :

Postcode : **2320**

Land Parcel : **Lot 1 DP995160**

Street : **Gillieston Road**

Suburb : **Maitland**

City :

Postcode : **2320**

Land Parcel : **Lot 1 DP72235**

Street : **Gillieston Road**

Suburb : **Gillieston Heights**

City :

Postcode : **2320**

Land Parcel : **Lot 1 DP998276**

Street : **Ryans Road**

Suburb : **Gillieston Heights**

City :

Postcode : **2320**

Land Parcel : **Lot 71 DP1050901; Lot 11 DP61751; Lot 9 DP1094575**

## Housekeeping LEP 2012

|               |                                                                                                                   |        |                        |
|---------------|-------------------------------------------------------------------------------------------------------------------|--------|------------------------|
| Street :      | <b>Government Road</b>                                                                                            |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                                                                                         | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 1 DP998262</b>                                                                                             |        |                        |
| Street :      | <b>Kiah Road</b>                                                                                                  |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                                                                                         | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lots 51 &amp; 52 DP1094371; Lot 151 DP1059601; Lot 1 DP998371; Lots 1, 2 &amp; 3 DP1102680; Lot 1 DP998370</b> |        |                        |
| Street :      | <b>Hungerford Lane</b>                                                                                            |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                                                                                         | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lots 1, 2, 3 &amp; 4 DP998274</b>                                                                              |        |                        |
| Street :      | <b>Russell Street</b>                                                                                             |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                                                                                         | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Part Lot 50 DP975994</b>                                                                                       |        |                        |
| Street :      | <b>Cessnock Road</b>                                                                                              |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                                                                                         | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lots 1 &amp; 2 DP976895; Lot 1 DP976896; Lot 103 DP1161547</b>                                                 |        |                        |
| Street :      | <b>61 Sempill Street</b>                                                                                          |        |                        |
| Suburb :      | <b>Maitland</b>                                                                                                   | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 22 DP1049668</b>                                                                                           |        |                        |
| Street :      | <b>1 Oakhampton Road</b>                                                                                          |        |                        |
| Suburb :      | <b>Maitland</b>                                                                                                   | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 1 DP666810 &amp; Lot 1 DP936146</b>                                                                        |        |                        |
| Street :      | <b>Paterson Road</b>                                                                                              |        |                        |
| Suburb :      | <b>Bolwarra Heights</b>                                                                                           | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 1 DP1005679</b>                                                                                            |        |                        |
| Street :      | <b>Regent Street</b>                                                                                              |        |                        |
| Suburb :      | <b>Maitland</b>                                                                                                   | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 1 DP996931</b>                                                                                             |        |                        |
| Street :      | <b>Banks Street</b>                                                                                               |        |                        |
| Suburb :      | <b>East Maitland</b>                                                                                              | City : | Postcode : <b>2323</b> |
| Land Parcel : | <b>Lots 7-9, Sec 33, DP758374</b>                                                                                 |        |                        |
| Street :      | <b>George Street</b>                                                                                              |        |                        |
| Suburb :      | <b>East Maitland</b>                                                                                              | City : | Postcode : <b>2323</b> |
| Land Parcel : | <b>Lot 196 DP755237</b>                                                                                           |        |                        |
| Street :      | <b>Tocal Road</b>                                                                                                 |        |                        |
| Suburb :      | <b>Tocal</b>                                                                                                      | City : | Postcode : <b>2421</b> |
| Land Parcel : | <b>Lots 1, 2 &amp; 3 DP1174183, Lots 1 &amp; 2 DP752474 and Lot 110 DP1040928</b>                                 |        |                        |
| Street :      |                                                                                                                   |        |                        |
| Suburb :      | <b>Duckenfield</b>                                                                                                | City : | Postcode : <b>2321</b> |
| Land Parcel : | <b>Hedge Row, Edithville Road &amp; Martins Wharf Road</b>                                                        |        |                        |

**Housekeeping LEP 2012**

|               |                                                 |        |                        |
|---------------|-------------------------------------------------|--------|------------------------|
| Street :      | <b>1-3 High Street</b>                          |        |                        |
| Suburb :      | <b>Maitland</b>                                 | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 31 DP 525153, Lot 1 DP 524847</b>        |        |                        |
| Street :      | <b>48-50 Melbourne Street</b>                   |        |                        |
| Suburb :      | <b>East Maitland</b>                            | City : | Postcode : <b>2323</b> |
| Land Parcel : | <b>Lots 101 and 102, DP 1063918</b>             |        |                        |
| Street :      | <b>St Helena Close</b>                          |        |                        |
| Suburb :      | <b>Lochinvar</b>                                | City : | Postcode : <b>2321</b> |
| Land Parcel : | <b>Lot A, DP 101196</b>                         |        |                        |
| Street :      | <b>St Helena Close</b>                          |        |                        |
| Suburb :      | <b>Lochinvar</b>                                | City : | Postcode : <b>2321</b> |
| Land Parcel : | <b>Lot 200 DP1111493</b>                        |        |                        |
| Street :      | <b>69 and 73 Swan Street</b>                    |        |                        |
| Suburb :      | <b>Morpeth</b>                                  | City : | Postcode : <b>2321</b> |
| Land Parcel : | <b>Lot 1 DP72883, Lot 1 DP734100</b>            |        |                        |
| Street :      | <b>John Arthur Avenue</b>                       |        |                        |
| Suburb :      | <b>Thornton</b>                                 | City : | Postcode : <b>2322</b> |
| Land Parcel : | <b>Lots 638 &amp; 639 DP262555</b>              |        |                        |
| Street :      | <b>99 Racecourse Road</b>                       |        |                        |
| Suburb :      | <b>Rutherford</b>                               | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lot 1504 DP1141535</b>                       |        |                        |
| Street :      | <b>Cartwright Street</b>                        |        |                        |
| Suburb :      | <b>Gillieston Heights</b>                       | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lots 10 &amp; 11 DP644668</b>                |        |                        |
| Street :      | <b>10 Elizabeth Street</b>                      |        |                        |
| Suburb :      | <b>Telarah</b>                                  | City : | Postcode : <b>2320</b> |
| Land Parcel : | <b>Lots 11 &amp; 12 DP1062775</b>               |        |                        |
| Street :      | <b>Stockland Greenhills, Molly Morgan Drive</b> |        |                        |
| Suburb :      | <b>East Maitland</b>                            | City : | Postcode : <b>2323</b> |
| Land Parcel : | <b>Lot 311 DP1031540</b>                        |        |                        |

**DoP Planning Officer Contact Details**

Contact Name : **Ben Holmes**  
Contact Number : **0249042709**  
Contact Email : **ben.holmes@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 :                       | <b>N/A</b>                                | Release Area Name :                                        | <b>N/A</b> |
| Regional / Sub<br>Regional Strategy : | <b>Lower Hunter Regional<br/>Strategy</b> | Consistent with Strategy :                                 | <b>Yes</b> |
| MDP Number :                          |                                           | Date of Release :                                          |            |
| Area of Release (Ha) :                | <b>0.00</b>                               | Type of Release (eg<br>Residential /<br>Employment land) : | <b>N/A</b> |
| No. of Lots :                         | <b>0</b>                                  | No. of Dwellings<br>(where relevant) :                     | <b>0</b>   |
| Gross Floor Area :                    | <b>0</b>                                  | No of Jobs Created :                                       | <b>0</b>   |

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 :

**Adequacy Assessment**

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

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

Comment :                    **The statement of objectives is generally consistent with the Department's "A guide to preparing planning proposals".**

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

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

Comment :                    **The "Explanation of Provisions" is generally consistent with the Department's "A guide to preparing planning proposals".**

**The following summarises and reviews the individual housekeeping changes proposed.**

**ITEM 1: amends the land use table such that where "home based childcare" is currently permitted without consent it would be changed to require consent.**

**Council advises this change results from recent RFS advice. Currently, there is no trigger for the development to be considered as a Special Fire Protection Purpose under the RFS Act because the use is permitted without consent. As a result, Council advises that neither RFS or Council can determine whether appropriate safety measures are being incorporated into the buildings/ land used for this purpose. (Note: a Special Fire Protection Purpose includes schools, child care centres, seniors housing etc).**

**Given the above, this change is supported.**

**ITEM 2: amends the minimum lot size map for a R1 zoned lot which currently has two MLS standards applying (450 m2 and 5,000 m2). The new lot size would be 450 m2 and reflect the minimum lot size applying to the adjoining residential land.**

**The lot is approximately 1,000 m2 and the site has been developed for a dwelling house. This change is supported.**

**ITEM 3: rezones the South Maitland Railway corridor from RU1 to SP2 and changes the minimum lot size map (no MLS would apply). Council advises that this is to remove permissibility issues in the rail corridor that have arisen by relying on the ISEPP. Further, Council notes the corridor is zoned SP2 in the adjoining LGA and so this would ensure consistency.**

**Council notes the land was formerly zoned special uses (railway) under the Maitland LEP 1993. Rezoning to SP2 would re-instate these controls and make it consistent with the approach taken in the Cessnock LGA. While Council has not expanded on the specific permissibility issues being encountered, it is common for rail corridors to be zoned SP2 and so this change is supported.**

**ITEM 4: corrects the property description of a local heritage item. Schedule 5 and the heritage map would be amended.**

**This change is supported.**

**ITEM 5: changes the heritage significance of four heritage items listed in Schedule 5 from local to State to reflect their recent listing on the State Heritage Register (SHR).**

**This change is supported. However, the PP refers to "St Peter's Church Group" as being item I121 in the schedule when it is actually item I21. This should be updated.**

**ITEM 6: adds a new item to the heritage schedule and heritage map. The item has been recently added to the SHR and is not currently listed in Schedule 5 of the LEP.**

**This change is supported.**

**ITEM 7:** updates the address details for a heritage item in Schedule 5 as the current address is incomplete.

This change is supported.

**ITEM 8:** the heritage item name for "Walli House" is incorrectly described in Schedule 5. This is to be corrected.

This change is supported.

**ITEM 9:** updates the address details for a heritage item in Schedule 5 as the current address is incorrect.

This change is supported. However, the heritage item is referred to in the PP as I148 when it should be I68. This should be updated.

**ITEM 10:** amends the heritage map for an item because the wrong lot has been mapped.

This change is supported. However, the heritage item is referred to in the PP as I64 when it should be I103. This should be updated.

**ITEM 11:** adds two local heritage items to the Schedule 5 and the heritage maps. Council states that these items were identified as heritage items under the former Maitland LEP 1993 but were omitted from the current LEP in error.

This change is supported.

**ITEM 12:** rezones two adjoining lots from RE1 Public Recreation to R1 General Residential. It would also update the minimum lot size map (450 m2 to apply).

Council advises that lot 638 was held in private ownership and zoned 5(a) Special Uses under the Maitland LEP 1993. It was incorrectly converted into RE1 in preparing the Maitland LEP 2011. The site adjoins residential. This change is supported.

Council states that lot 639 is owned by Council and was formerly zoned 2(a) Residential. Council has advised that the PP incorrectly identifies the land as community land when it should be operational.

Rezoning the lot to R1 would re-instate controls equivalent to the 2(a) controls that previously applied and therefore the change is supported. Council should update the land classification error.

**ITEM 13:** Council states that the lot and DP for a site referred to in clause 7.7 'Certain development at Racecourse Road, Rutherford' and its corresponding entry in clause 6 of Schedule 1 is incorrect. The LEP would be updated with the correct lot/ DP.

This change is supported.

**ITEM 14:** changes the zoning of two lots from RE2 Private Recreation to RE1 Public Recreation. Council advises that the land is owned by Council and Hunter Water, and was previously zoned 6(a) Public Recreation under the former Maitland LEP 1993. Their zoning was incorrectly converted in the current LEP to RE2.

As the land was previously zoned for public recreation and remains publicly owned, RE1 zoning is appropriate. The change is supported.

**ITEM 15:** updates the heritage map for a local heritage item because the wrong lot/ DP is

currently mapped.

This change is supported.

**ITEM 16:** While not stated in the PP, Council advises that this change relates to lot 311 DP 1031540. It would change the mapped maximum height from 12 m to 24 m to reflect a recently approved DA for the site. Adjoining lots however would retain their existing 12 m height.

Given that this change would align the planning controls with the DA approved height for that lot, the change could be supported. Council should identify the lot and DP in the Explanation of Provisions and ensure the correct lot and DP are mapped with the new height.

#### Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

\* May need the Director General's agreement

Is the Director General's agreement required? **N/A**

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

d) Which SEPPs have the RPA identified?

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

**Council advises that there are no SEPPs or s117 directions that would prohibit or restrict the matters contained in the PP.**

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

#### Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

**The maps provided by Council could be improved to better assist the community in understanding the changes proposed. For each map that is to be changed, Council should clearly identify the affected site and show the relevant current and proposed mapped planning control.**

**The Department has hand marked the relevant proposed changes (approximate) to assist in the interpretation of this report.**

#### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

**Council considers the PP to be a low impact PP and proposes a 14 day consultation period. This is supported.**

#### Additional Director General's requirements

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

If Yes, reasons :

**PROJECT TIMELINE**

**Council's timeline (p.11 of the PP) nominates PP completion by the end of October 2013, approximately four months after the Gateway Determination. A six month completion timeframe is recommended so as to provide an adequate buffer should unexpected delays occur.**

**DELEGATION AUTHORISATION**

Council has accepted plan-making delegation for PPs generally, however it has not been specifically requested for this PP. The reason for this is not discussed by Council.

Planning Circular PS12-006 identifies that the Gateway has the option of delegating a PP to Council for mapping alterations and other matters of local significance as determined by the Gateway. Delegation is recommended 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 : The need for the PP is considered justified. The Department's consideration of each item is discussed under the 'Explanation of Provisions' section of this report.

Consistency with strategic planning framework : This PP addresses LEP housekeeping matters rather than strategic planning matters, consistency with SEPPs, s117 directions has been considered. The PP is not considered inconsistent with SEPPs or s117 directions at this time.

However, it is noted that items 12 and 14 would technically be inconsistent with s117 direction 6.2 Reserving Land for Public Purposes because it would alter the existing zone of publicly owned land (clause 4). Item 12 would rezone a Council-owned lot from RE1 to R1, while item 14 would rezone a Council-owned lot and a lot owned by Hunter Water from RE2 to RE1.

As discussed previously, these are minor errors which Council intend to correct by rezoning the sites to a standard instrument zone that aligns with their former zoning under the Maitland LEP 1993. The DG should therefore agree that the PP's inconsistency with this direction is of minor significance.

Environmental social economic impacts : As the PP is for housekeeping LEP matters, it is not anticipated that it would result in substantial environmental, social or economic benefits for the broader community.

Regarding agency consultation, given that the PP is about minor matters like correcting errors, no additional agency consultation is recommended.



**Assessment Process**

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority  
Consultation - s56(2)(d)

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

**Documents**

| Document File Name                    | DocumentType Name               | Is Public  |
|---------------------------------------|---------------------------------|------------|
| <b>Council Report.pdf</b>             | <b>Proposal Covering Letter</b> | <b>Yes</b> |
| <b>Council Resolution.pdf</b>         | <b>Proposal Covering Letter</b> | <b>Yes</b> |
| <b>Planning Proposal.pdf</b>          | <b>Proposal</b>                 | <b>Yes</b> |
| <b>Map LSZ Items 2_3_12.pdf</b>       | <b>Map</b>                      | <b>No</b>  |
| <b>Map LZN Items 3_12.pdf</b>         | <b>Map</b>                      | <b>No</b>  |
| <b>Map HER Items 4_6_10_11_15.pdf</b> | <b>Map</b>                      | <b>No</b>  |
| <b>Map HOB Item 16.pdf</b>            | <b>Map</b>                      | <b>No</b>  |

**Planning Team Recommendation**

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

S.117 directions:

Additional Information : **It is recommended the PP proceed subject to the following conditions:**

- ensure references in the Explanation of Provisions to heritage item numbers align with the heritage item numbers listed in Schedule 5 of the LEP;
- having noted Council's advice that the Council-owned land identified in item 12 is operational land not community land, update the Explanation of Provisions for item 12 accordingly;
- for item 16 in the Explanation of Provisions, list the lot and DP affected by this change

## Housekeeping LEP 2012

- and ensure the correct lot and DP is mapped;
- include relevant maps with the exhibition material which show the relevant current mapped planning control and the proposed new mapped planning control. Affected sites should be clearly identified;
- 6 month completion timeframe; and
- 14 day community consultation period.

It is recommended that the DG agree that the PP's inconsistency with s117 direction 6.2 Reserving Land for Public Purposes is of minor significance.

It is recommended that the Gateway delegate plan-making functions to Council for this PP because it is for mapping alterations and matters of local significance.

Supporting Reasons :

Supporting reasons are discussed in the Explanation of Provisions and Assessment sections of this report.

Signature:



Printed Name:

K. O'FLAHERTY

Date:

28-6-2013