

Maitland LEP 2011 – amendment to Clause 4.2A Erection of dwelling houses on land in certain rural and environmental zones.

Proposal Title :	Maitland LEP 2011 – amendment to Clause 4.2A Erection of dwelling houses on land in certain rural and environmental zones.		
Proposal Summary :	To clarify the operation of clause 4.2A which currently allows consideration of development applications for a dual occupancy on land that does not have a dwelling entitlement.		
PP Number :	PP_2013_MAITL_004_00	Dop File No :	13/12117

Proposal Details

Date Planning Proposal Received :	17-Jul-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 :			
Suburb :		City :	Postcode :
Land Parcel :			

DoP Planning Officer Contact Details

Contact Name :	Paul Maher
Contact Number :	0249042719
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RPA Contact Details

Contact Name :	Josh Ford
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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

N/A

No. of Lots : **0**

No. of Dwellings
(where relevant) : **0**

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Numerous Standard Instruments have altered the model clause 4.2A to exclude other forms residential accommodation other than 'dwellings' in particular zones. For example Armidale LEP 2012, Ballina LEO 2012 and Eurobodalla LEP 2012 all restrict dual occupancies as well as dwellings under clause 4.2A. Therefore, the Planning Proposal does not set a precedent by altering a model clause.**

Adequacy Assessment

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

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

Comment : **Amend the wording of clause 4.2A to clarify that dual occupancy has the same meaning as dwelling in respect to dwelling entitlements under the clause.**

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

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

Comment : **The provisions are to amend clause 4.2A by inserting 'dual occupancy' alongside dwelling where it appears in the clause. See Planning Proposal page 3-4 outlining the proposed drafting of clause 4.2A.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

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

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

If No, explain :

S117 DIRECTIONS

Direction 1.2 Rural Zones – the proposal is consistent with Direction 1.2 as it does not contain provisions that will increase the permissible density of land in rural zones.

Direction 1.5 Rural Lands – the proposal is consistent with Direction 1.5 as it does not propose to change the minimum lot size in rural or environmental zones.

STATE POLICIES

The Planning Proposal is consistent with the SEPP (Rural Lands) 2008 as it seeks to uphold the Rural Planning Principles and Rural Subdivision Principles of the SEPP by maintaining existing dwelling entitlements.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

N/A the amendment is shire wide and effects the instrument only.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council has proposed a 14 day consultation period and it is considered that this is appropriate.

Additional Director General's requirements

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

If Yes, reasons :

PROJECT TIMELINE

Council's timeline nominates the Planning Proposal's completion by the end of February 2014, approximately six (6) months after the Gateway Determination. A nine (9) 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 planning proposal's generally, however it has not been specifically requested for this Planning Proposal. The reason for this is not discussed by Council.

Planning Circular PS12-006 identifies that the Gateway has the option of delegating a planning proposal 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 :

The Planning Proposal should proceed.

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Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in
relation to Principal
LEP :

Maitland LEP 2011 was notified in December 2011.

Assessment Criteria

Need for planning
proposal :

The Planning Proposal is in response to Council finding unintended consequences with the current drafting of clause 4.2A. The consequences are that Council is required to accept development applications for dual occupancies on land that currently prohibits dwellings under clause 4.2A.

A planning proposal is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.

Consistency with
strategic planning
framework :

This approach is consistent with the objectives of the Lower Hunter Regional Strategy 2006 and the local Maitland Rural Strategy 2005.

Lower Hunter Regional Strategy (LHRS)

The Planning Proposal is consistent with the actions outlined in Part 9 – Rural Landscape and Rural Communities which seek to limit further dwelling entitlements in rural areas and maintain minimum lot size that confer new dwelling entitlements. The Planning Proposal does this by amending clause 4.2A so that unintended dwelling entitlements are not conferred through future development applications.

Local Strategy – Maitland Rural Strategy 2005 (MRS)

The MRS sets out to protect the agricultural potential of Maitland's rural lands by limiting the further fragmentation of rural properties. By not allowing the proliferation of dwelling entitlements, further fragmentation of rural land is limited.

Environmental social
economic impacts :

Environmental impacts:

The Planning Proposal seeks to improve the existing protection of environmentally zoned land through limiting the proliferation of dwelling entitlements in rural and environmental zones.

Social and Economic: The social and economic deliverables of the planning proposal are to maintain the status quo of dwelling entitlements in rural and environmental areas by not allowing additional dwelling entitlements in remote areas.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :			

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

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

If no, provide reasons : **No consultation is required with government agencies as the planning proposal fulfils the initial intent of limiting dual occupancies in certain rural and environmental zones through Maitland LEP 2011.**

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

Planning Team Recommendation

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

S.117 directions:

Additional Information :

1. **Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**
(a) **the planning proposal must be made publicly available for 14 days; and**
(b) **the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).**
2. **Consultation is not required with public authorities under section 56(2)(d) of the EP&A Act**
3. **A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
4. **The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.**

Supporting Reasons :

1. **The Planning Proposal will align Maitland LEP 2011 with its original intention to minimise dwelling proliferation in rural and environmental zones.**
2. **The Planning Proposal is consistent with the objectives of Maitland Rural Strategy 2003.**

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Signature:



Printed Name:

KOFLAHERTY

Date:

5/8/13