

**10.7 AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 -
FORMER BOLWARRA URBAN RELEASE AREA**

File No:	RZ13006
Attachments:	1. Planning Proposal 2. Correspondence issued by DOPI
Responsible Officer:	Bernie Mortomore - Executive Manager Planning, Environment and Lifestyle Ian Shillington - Manager Urban Growth
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

*The subject planning proposal involves making alterations to the extent of the subject site that is currently zoned R1 General Residential zone under the Maitland Local Environmental Plan 2011 (MLEP 2011), based on a revised flood level in the locality and the need for wastewater infrastructure within the site to service future allotments. The land comprises three different land use zones, being R1 General Residential, E3 Environmental Management and E2 Environmental Conservation. Land zoning mapping and minimum lot size mapping will need to be amended for the site, as well as removal of the site from the relevant Urban Release Area (URA) map. The subject planning proposal is annexed to this report as **Attachment 1**.*

*The land is currently mapped as an URA in the MLEP 2011, however, following discussions between the proponent and the Department of Planning and Infrastructure (DOPI), the subject LEP amendment will seek to have the URA status of the land removed. The site is not considered to be of a size or scale to warrant Special Infrastructure Contributions for the State Government. Correspondence issued by DOPI is annexed to this Council report as **Attachment 2**.*

Given the size of the allotment and the scale of the proposal within the final portion of developable land in the immediate locality of Bolwarra, the proposal has been submitted to Council for assessment as a joint rezoning and Development Application. This has previously occurred for sites of a similar size and scale at Mount Harris and Anambah. This approach is considered to provide Council and DOPI with appropriate justification for the proposed amendment and give some level of certainty about the intended outcome for the site.

OFFICER'S RECOMMENDATION**THAT**

- 1. Pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, the planning proposal for land known as Lot 931 DP1178976 Bolwarra Road, Bolwarra (currently known as the Bolwarra Urban Release Area) be submitted to the Department of Planning &**

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Infrastructure for a Gateway Determination.

- 2. Council note that the planning proposal intends to remove the Urban Release Area status from the subject land.**
- 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.**

BACKGROUND

In May 2011 land known as the Bolwarra URA was rezoned to urban and environmental purposes. The site was zoned R1 General Residential, E2 Environmental Conservation and E3 Environmental Management following the gazettal of the MLEP 2011 in December 2011.

Since the land was rezoned it has become apparent to the proponent, following discussions with Hunter Water Corporation, that the augmentation of wastewater infrastructure within the site requires filling along the western edge of the existing R1 General Residential zone boundary. The subject zoning boundary forms an interface with the E3 Environmental Management zoning boundary within the site.

The land proposed to be filled is inundated during the 1% AEP flood event. The subject land is part of a flood storage area and it is anticipated that DOPI will permit the minor filling within the limited area of land inundated during the 1% AEP flood event, as the filling is for the purpose of providing essential infrastructure for future development within the site. While additional allotments will effectively be created as part of this process (by allowing for building envelopes above the 1% AEP flood level), those allotments can only be created by virtue of the filling works required to be undertaken for the augmentation of wastewater services to be provided to the site, as well as the requirement to provide fill to accommodate a cul-de-sac turning head in the Southern extent of the proposed R1 General Residential zone.

POLICY CONTEXT

The MLEP 2011 is Council's principal statutory planning instrument that governs land use planning decisions within the Maitland LGA. The subject draft LEP relates to minor site specific changes to the zoning, minimum lot size and URA status of the subject land, which is already partly zoned for urban purposes.

DRAFT LOCAL ENVIRONMENTAL PLAN

The draft LEP aims to achieve a logical planning outcome for the site by allowing essential infrastructure, as shown in the planning proposal which is included as **Attachment 1**.

Land Zoning Map

The proposal involves making minor variations to the land use zoning map for the subject land to accommodate additional areas of land to be zoned R1 General Residential zone. The proposal includes minor areas of filling for land that is currently inundated in the 1% AEP flood event, and it is proposed that these areas of land be zoned R1 General Residential zone. There is no proposal to reduce the amount of E2 Environmental Conservation zoned land within the site, as the minor

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areas of land to be filled are currently zoned E3 Environmental Management. This is predominantly due to the former 1% AEP flood level being the current interface between the R1 General Residential zone and the E3 Environmental Management zone. The E3 Environmental Management zone acts as a buffer between the R1 General Residential zone and the E2 Environmental Conservation zone. The proposal actually results in a net increase in E3 Environmental Management zoned land, as part of the Eastern portion of land currently zoned R1 General Residential is proposed to be rezoned to E3 Environmental Management zone.

Lot Size Map

Due to the minor areas of filling proposed at the site in association with the proposed residential subdivision, and the changes proposed to the relevant land zoning map, amendments are also required to the relevant lot size map in order to reflect the changes in zoning and minimum lot size arrangements for the site.

As illustrated on the proposed concept lot layout in **Attachment 1**, three of the proposed allotments (including the proposed public reserve allotment) are proposed to have a minimum lot size of 20,000m² applied to them. Each of these aforementioned allotments to be created will remain zoned E3 Environmental Management, but will be unable to satisfy the 40Ha minimum lot size currently mapped for that portion of the site. Hence, the proposal includes amending the minimum lot size map to accommodate these proposed allotments in the E3 Environmental Management zone, with a minimum lot size of 20,000m². This will allow two individual allotments to be created that could each accommodate a dwelling (subject to any future merits based development assessment), while also creating an allotment for use as a public reserve.

Urban Release Area Status & Special Infrastructure Contributions

At the time the land was rezoned, it was classed as an URA by DOPI, and a Special Infrastructure Contribution (SIC) was applicable to the land. The site is still mapped as an URA in the MLEP 2011. Council has previously written to DOPI in February 2011 questioning the validity of DOPI's decision to apply URA status to the site, given its small size and extent. A copy of that correspondence is provided under **Attachment 2**. DOPI have issued correspondence to the proponent that states their position in regards to requirements for state infrastructure in accordance with Clause 6.1 of the MLEP 2011. DOPI states in their correspondence that "...Development within the Bolwarra URA should not be subject to the requirement towards state infrastructure." Given this position by DOPI, and given that Council had previously questioned why the site was to be mapped as an URA, it is proposed to delete the site from the URA map in the MLEP 2011 as part of this LEP amendment.

Furthermore, the land does not have its own site specific Section 94 Contributions Plan and there is no statutory reason why the URA status should remain. The Citywide Section 94 Plan will continue to apply to the land.

GATEWAY PLANNING PROCESS

If Council resolves to forward the planning proposal to DOPI seeking a Gateway Determination, the next step is for DOPI to issue a Gateway Determination which will outline the requirements for community and government agency consultation. The outcomes of community and government agency consultation will be reported to Council as part of a future Council report.

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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.

STATUTORY IMPLICATIONS

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

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Planning, Environment and Lifestyle Reports

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Planning Proposal

Meeting Date: 22 October 2013

Attachment No: 1

Number of Pages: 30

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(Cont.)

PLANNING PROPOSAL

Amendment to the Maitland LEP 2011

BOLWARRA URBAN RELEASE AREA

(Lot 9 DP1116838 Bolwarra Road, Bolwarra)

Version 1.0 – 26th September 2013



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Version

Version 1.0 – 26.09.2013 Section 55 Report to Council

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INTRODUCTION

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a planning proposal has been prepared to support a concept Development Application for land known as the Bolwarra Urban Release Area (URA).

The purpose of this planning proposal is to enable the logical rezoning of land for urban purposes and to ensure the ongoing protection of sensitive environmental areas, by concurrently assessing a Development Application for a residential subdivision at the site. The Maitland LEP 2011 currently identifies zonings of R1 General Residential, E2 Environmental Conservation and E3 Environmental Management for the site. The R1 General Residential zoned portion of the site is currently mapped as the Bolwarra URA. A location map is attached as **Appendix 1** which identifies the subject site.

The subject planning proposal seeks to remove the URA status of the land, amend the zoning boundaries and amend minimum lot size mapping to reflect these changes (see **Appendix 2**). The reasons for the planning proposal include (i) unforeseen requirements for filling of land to support wastewater infrastructure at the site; (ii) a revised flood level since gazettal of the LEP amendment for the Bolwarra URA (gazettal occurred under the MLEP 1993); (iii) potential for better management of environmental land within the site; and (iv) potential for public access through the Western portion of the site, adjoining the Hunter River.

PART 1: OBJECTIVES or INTENDED OUTCOMES

The objectives of this planning proposal are:

- To enable future residential land use while simultaneously improving land management associated with wetlands that exist within the subject site;
- To improve non-vehicular access and linkages between the site and adjoining urban land; and
- To accommodate the logical extension to existing urban development and infrastructure, while also ensuring appropriate environmental outcomes.

PART 2: EXPLANATION of PROVISIONS

The objectives of the proposed amendment will be achieved through an alteration to the relevant Zoning Map, Minimum Lot Size Map and Urban Release Area Map. The proposed maps resulting from the rezoning of the site are included as **Appendix 2**.

The Maitland Local Environmental Plan 2011 is proposed to be amended by:

- (1) amending sheet 004C of the **Land Zoning Map** to show the relevant portions of the site as zone R1 General Residential, E2 Environmental Conservation and E3 Environmental Management.
- (2) amending sheet 004C of the **Lot Size Map** to illustrate the minimum lot sizes for the respective zones, being 450m² for land to be zoned R1 General Residential, 20,000m² and 400,000m² (40Ha) for the areas of land to be zoned E3 Environmental Management. The minimum lot size of 400,000m² (40Ha) will be retained for land currently zoned E2 Environmental Conservation within

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(Cont.)

the site, as this zoning boundary will not be altered under the proposal. Similarly, the land in the far Eastern portion of the site that is currently zoned E3 Environmental Management will retain the current minimum lot size of 10,000m².

- (3) amending sheets 004C of the **Urban Release Area Map** to delete the Bolwarra Urban Release Area. See **Appendix 3** for correspondence from the Department of Planning & Infrastructure that relates to this point.

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 the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

Section A – NEED for the PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal applies to land known as the Bolwarra URA under the MLEP 2011. The land was rezoned and classified as an URA in May 2011, under the MLEP 1993. The amendment was known as Amendment #107 to the Maitland Local Environmental Plan 1993.

Part of the subject land was identified in the Maitland Urban Settlement Strategy (MUSS) as a Category 1 investigation area prior to the land being rezoned. The Bolwarra URA is no longer identified in the MUSS as it has now been rezoned to residential purposes.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The land was rezoned and classified as an URA in May 2011, under the MLEP 1993. However, due to several issues arising, there is now a requirement to amend the minimum lot size mapping, zoning mapping and URA mapping for the site. This can only be achieved by way of submitting a planning proposal to the Department of Planning & Infrastructure, in order to obtain a Gateway determination.

The reasons for the planning proposal include (i) unforeseen requirements for land filling to accommodate wastewater infrastructure at the site; (ii) a revised flood level since gazettal of the LEP amendment for the Bolwarra URA (gazettal occurred under the MLEP 1993); (iii) potential for better management of environmental land within the site; and (iv) potential for public access through the Western portion of the site, adjoining the Hunter River.

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(Cont.)**3. Is there a net community benefit?**

The rezoning proposal does not include a determination of Net Community Benefit, since no NCB test was undertaken by the proponent. There is likely to be a net community benefit resulting from the planning proposal, since:

- The amendment will provide an opportunity for improved local non-vehicular and pedestrian linkages between land North and South of the site;
- The proposal includes dedication of land to Council to enable public access along the Western extent of the site that adjoins the Hunter River; and
- The concept DA allows for better land management outcomes for the environmentally sensitive land within the site.

Section B – RELATIONSHIP to STRATEGIC PLANNING FRAMEWORK**4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?****Lower Hunter Regional Strategy (NSW Dept of Planning) – October 2006**

This planning proposal is consistent with the aims and objectives of the LHRs 2006, particularly those aims that relate to housing, transport, environment and natural resources. The land was rezoned to urban purposes and classed as an URA by the Department of Planning & Infrastructure in 2011. The subject planning proposal involves only minor changes to mapping associated with the site and will not impact upon the objectives of the LHRs 2006.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The subject planning proposal is consistent with the Maitland 2021 Community Strategic Plan and the supporting Delivery Program 2011-2015, particularly in relation to objective 7.2.1 – *To ensure land and housing choice is consistent with forecast demographic demand.* In regards to land use strategies, the following documents provide the appropriate strategic policy framework to support this planning proposal.

Maitland Urban Settlement Strategy 2001-2021 (Maitland City Council) – 2010 Edition

The land is identified in the MUSS 2010 as existing undeveloped residential zoned land.

The environmental studies submitted as part of the original rezoning application for the Bolwarra URA adequately addressed environmental issues associated with the site, including those that had been identified in earlier editions of the MUSS. Given that the LEP amendment for the Bolwarra URA was made in 2011, and the subject planning proposal involves only minor amendments to the gazetted amendment, there is not considered to be a further need for any detailed environmental studies to support the proposal.

6. Is the planning proposal consistent with applicable state environmental planning policies?

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

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(Cont.)

below.

SEPP	Relevance	Consistency and Implications
SEPP No. 55 - Remediation of Land	Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	The subject land was formerly used as a wastewater treatment works by Hunter Water Corporation. In addition to this use, the site has previously been subject to agricultural activities over time and may accommodate chemical residues from activities such as cattle drenching, and from fertilisers and herbicides. A detailed contamination report was previously submitted as part of the rezoning that was gazetted in 2011, which addressed this SEPP and demonstrated that the land was suitable for residential purposes. A further report has been submitted with the concept DA prepared in association with this planning proposal, and the assessment has not identified any issues that would prevent residential occupation relating to the subject land to be rezoned to facilitate residential dwellings.
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.	While the subject land was formerly used as a wastewater treatment works by Hunter Water Corporation, nothing in this planning proposal impacts upon the aims and provisions of this SEPP.

Table One: Relevant State Environmental Planning Policies

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

While information submitted with the initial rezoning proposal suggested that the proposal was not inconsistent with any s.117 Ministerial Directions, the outcomes of further environmental investigations were required in some instances to confirm this. An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
EMPLOYMENT and RESOURCES		
N/A - The provisions of the s.117 directions relating to employment and resources do not apply to the subject planning proposal.		

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(Cont.)

Ministerial Direction	Aim of the Direction	Consistency and Implications
ENVIRONMENT and HERITAGE		
2.1 Environment Protection Zones	To protect and conserve environmentally sensitive areas.	The proposal to amend the zoning boundaries of the R1 General Residential and E3 Environmental Management zones will not reduce the amount of land which is currently protected through the E2 Environmental Conservation zoning. Furthermore, the proposal will actually result in a net increase in E3 Environmental Management zoned land, as the R1 General Residential zone and E3 Environmental Management zone boundaries are to be amended in association with the revised flood level and proposed subdivision layout. It is envisaged that the proposal will actually improve protection of the wetlands within the site by allowing for minor filling and thereby creating flood free building envelopes for those allotments that will be zoned E3 Environmental Management. Management of the wetland would be undertaken by the one property owner whose allotment retains the wetland wholly within their property boundaries. The planning proposal is consistent with this direction.
2.3 Heritage Protection	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The Bolwarra Conservation Area (as defined in the MLEP 2011) adjoins the subject site to the south, opposite Bolwarra Road. The proposed rezoning does not impact upon heritage items within this heritage conservation area. The 'King Tom Memorial' is located upon adjoining Lot 932 DP1178976, immediately South-east of the subject site. This heritage item is located a significant distance from the developable portion of the subject site. The King Tom Memorial retains protection through an easement for access from Bolwarra Road, and furthermore, the entire item and part of the easement located within Lot 932 is currently zoned E3 Environmental Management under the MLEP 2011. The proposal is consistent with this direction as the MLEP 2011 considers the proximity of the King Tom Memorial and, in any case, the Southern area of the subject site is affected by the 1% AEP flood event and development is therefore limited in this portion of the site.
HOUSING, INFRASTRUCTURE and URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of	The proposed rezoning will result in only minor

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(Cont.)

Ministerial Direction	Aim of the Direction	Consistency and Implications
	housing, minimise the impact of residential development on the environment and resource lands and make efficient use of infrastructure and services.	amendments to land use zones to enable additional future urban development at the site. Part of the land is currently identified as an URA under the MLEP 2011, and as undeveloped residential zoned land in the MUSS 2010. The proposal is therefore consistent with this direction.
3.2 Caravan Parks and Manufactured Home Estates	To provide for a variety of housing types, and to provide opportunities for caravan parks and manufactured home estates.	Part of the land is currently identified as an URA under the Maitland LEP 2011 and also as undeveloped residential zoned land in the MUSS 2010. The proposal is therefore consistent with this direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	The proposal is consistent with this direction, given that a portion of the land is proposed to be developed in the future for residential purposes. The rezoning will form an amendment to the MLEP 2011, which currently permits 'Home Occupation' without consent in the R1 General Residential zone.
3.4 Integrating Land Use and Transport	The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, jobs and services by methods other than private vehicles.	The land is well located to support the surrounding residential development and to provide high levels of accessibility to existing road and public transport networks. Part of the land is currently identified as an URA under the MLEP 2011 and as undeveloped residential zoned land in the MUSS 2010. The proposal is consistent with this direction.
HAZARD and RISK		
4.1 Acid Sulphate Soils	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.	Part of the investigation area is affected by Acid Sulphate Soils. The majority of this portion of land is also inundated during the 1% AEP flood event. Apart from the areas below the 1% AEP flood level that are proposed to be filled, the majority of this portion of land will not be able to be utilised for residential purposes given the flooding constraints. Environmental studies submitted with the original rezoning proposal for the land (gazetted in 2011) illustrated that ASS is not a constraint to development within the site. Given that the matter is of minor significance, the proposal is considered to be consistent with this direction.
4.3 Flood Prone Land	Directions aims to reduce the risk of flood and to ensure that the development of flood prone land is consistent with NSW Flood Prone	It should be noted that Council has identified a revised flood level for this site, following the adoption of Council's flood study in 2010, which followed the majority of work already undertaken

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(Cont.)

Ministerial Direction	Aim of the Direction	Consistency and Implications
	land policy.	for the rezoning of the Bolwarra URA at that time. The revised flood level has the effect of reducing the 1% AEP flood level from RL14.3AHD to RL13.9AHD at the site, resulting in additional flood free land adjoining R1 General Residential zoned land within the site. While the majority of the site is affected by inundation during the 1% AEP flood event, areas of the site above RL13.9AHD will be capable of supporting residential development, including some proposed areas of minor filling to meet RL13.9AHD. Filling is required within parts of the site in any case to accommodate future wastewater infrastructure, including a pump station at the site, therefore minor filling to allow for a logical development outcome is considered appropriate in this instance. The areas requiring fill have been identified on the supporting plans, and are considered to be of minor significance. The proposal is therefore considered to be consistent with this direction.
4.4 Planning for Bushfire Protection	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and to encourage sound management of bush fire prone areas.	The far Eastern portion of the investigation area is mapped as bushfire prone. The NSW Rural Fire Service has previously been consulted as part of the original rezoning process for the Bolwarra URA, following the Gateway determination which listed the RFS as a government agency to consult. The RFS had no objection to the rezoning, which was gazetted in 2011. The proposal is considered to be consistent with this direction.
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 achieves the overall intent of the LHRs 2006 and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions. The proposal is therefore consistent with this direction.
LOCAL PLAN MAKING		
The provisions of the s.117 directions relating to local plan making do not apply to the subject site.		
METROPOLITAN PLANNING		
The provisions of the s.117 directions relating to metropolitan planning do not apply to the subject site.		

Table Two: Relevant s.117 Ministerial Directions

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(Cont.)**Section C – ENVIRONMENTAL, SOCIAL and ECONOMIC IMPACT****8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The referral of the application to the Director-General of the DECCW in accordance with section 34A of the Environmental Planning and Assessment Act, 1979 was not required in this instance. A detailed flora and fauna study was prepared to inform the original rezoning, which was gazetted in 2011. The study concluded that the future development of the site for residential purposes will not have any significant impact upon existing EECs or native wildlife within the investigation area. While the subject site does retain Endangered Ecological Communities (EECs), these will not be impacted by the proposal since the additional area of the site to be rezoned to R1 General Residential zone is located outside the areas of the site accommodating EECs.

The Gateway determination for the original rezoning proposal listed DECCW as an authority to consult. DECCW did not object to the proposal as part of that consultation process.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?Flora & Fauna

The MUSS 2008 (p.84) identified the need to retain linkages between existing vegetation and wetlands within the site, and the importance of the environmental protection zone and buffers which exist and should be considered as part of investigations. Protection of water quality and habitat value were also noted in the MUSS for this site.

The Bolwarra URA currently accommodates contiguous native vegetation which includes Endangered Ecological Communities (EECs), being Freshwater Wetland and Alluvial River Oak Forest. In addition to these EECs, part of the Eastern portion of the site has been regenerated through the activities of a local Landcare Group and a small area in the North of the site is identified as accommodating Lower Hunter Spotted Gum. A detailed flora and fauna study was prepared to inform the original rezoning proposal. The study concluded that the future development of the site for residential purposes would not have any significant impact upon existing EECs or native wildlife within the site. Given the cleared nature of the majority of the developable portion of the site, Council is satisfied future residential development is unlikely to cause any detrimental impacts to EECs or native wildlife within the site. General development controls relating to elements like stormwater quality, retaining walls and landscaping exist under Council's Citywide DCP 2011, which will ensure that any future residential subdivision at the site does not have detrimental impacts on flora and fauna within the site. Furthermore, a detailed flora and fauna study is to be submitted to support the DA for residential subdivision at the site.

Bushfire

A suitable bushfire report was prepared with the original rezoning to address bushfire risk, in accordance with Planning for Bushfire Protection 2006 (PFBP 2006). The report identified the hazard and provided an indicative lot layout to demonstrate how the proposal would comply with PFBP 2006. The RFS were consulted following the Gateway determination for the original rezoning. The RFS did not object to the proposal as part of that consultation process.

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(Cont.)Noise & Vibration

Due to the proximity to the North Coast Railway Line, an acoustics and vibration report was completed to inform the original rezoning proposal. The report addressed DECCW's guidelines relating to noise and vibration, with a particular focus on railway corridors and proximity to residential receivers. The study considered the likely impacts of rail movements along the existing North Coast Railway Line, as well as the likely impacts from traffic generated along Paterson Road. The report stated that there are no requirements for any noise attenuation buffers/barriers or design controls for future dwellings within the URA.

Traffic

The MUSS 2008 (p. 84) noted that access to the site was available via the internal road network of the adjoining residential subdivision to the North of the site, which connects to Paterson Road further east. Limiting the number of access points to the site, and also to Paterson Road, was considered an important component of traffic investigations for the site. Reference was made in the MUSS 2008 (p. 84) to the cumulative impact of the rezoning in regards to additional traffic movements from the South (Lorn), in addition to the proposed Third Hunter River Crossing.

A traffic report was completed as part of the original rezoning proposal. The traffic report addressed the likely impacts of future urban development within the URA, as well as the immediate surroundings and on major roads in the locality, including Paterson Road and the anticipated impacts of the Third Hunter River Crossing. The traffic report complied with the RTA's guidelines for traffic generating developments. The report concluded that the existing road network is capable of supporting the additional traffic loads that are likely to be generated as a result of that original rezoning and future residential development of the Bolwarra URA. The subject planning proposal involves only a minor variation to the original rezoning proposal and is not considered to warrant further investigations in relation to traffic.

Flooding & Stormwater

The MUSS 2008 (p. 86) identified that the land is affected by flooding during the 1% AEP flood event, and stated that flooding was a significant issue to be investigated as part of any future rezoning proposal for the site.

Given the characteristics associated with the site - topography, 1:100 year flood inundation, wetlands, and the proximity to the Hunter River - a concept stormwater plan was required to inform the original rezoning proposal. The stormwater plan considered the likely areas for stormwater detention within the URA, in addition to identifying appropriate methods for ensuring stormwater quality is maintained. The stormwater concept plan identified that the site is capable of supporting residential development within the developable portion of the site.

It should be noted that Council has identified a revised flood level for this site, following the adoption of Council's flood study in 2010, which followed the majority of work already undertaken for the rezoning of the Bolwarra URA at that time. The revised flood level has the effect of reducing the 1% AEP flood level from RL14.3AHD to RL13.9AHD at the site, resulting in additional flood free land adjoining existing R1 General Residential zoned land within the site.

While the majority of the site is affected by inundation during the 1:100 year flood event, areas of the site above RL13.9AHD will be capable of supporting residential development, including some proposed areas of minor filling to meet RL13.9AHD. Filling is required in the Western portion of the site in any case, in order to accommodate a future wastewater pump station at the site. Minor filling to allow for a logical development outcome is considered appropriate in this instance (refer to **Appendix 2**).

The areas requiring fill have been identified on the supporting plans, and are considered to be of minor significance.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)Geotechnical & Contamination

A geotechnical report was completed in association with the original rezoning of the land, which investigated Acid Sulfate Soils (ASS), Potential Acid Sulfate Soils (PASS), salinity and sodicity. The report was extended to identify sources of contamination, given the past activities associated with the former Hunter Water Corporation wastewater treatment works and prior rural uses that occurred within the site, namely a dairy farm. While the report identified specific isolated areas of contamination, it was concluded that, overall, the land was suitable for future residential development. Furthermore, the majority of areas identified as potential contamination sources were all located outside the proposed residential area of the site, as is the case with the subject rezoning proposal. The residual land outside the extent of the proposed R1 General Residential zone is to retain zoning for environmental protection and environmental management purposes, therefore development would not be occurring in these areas in any case. Additional assessment was undertaken as part of more specific investigations for the concept DA for residential subdivision of the site, with those investigations concluding that the site can be utilised for residential purposes.

Water & Wastewater Servicing

A preliminary infrastructure servicing plan was prepared to support the original rezoning for the Bolwarra URA. The servicing plan identified proposed extension points and networks for water and wastewater infrastructure. Prior to residential development occurring at the site, details will be required from water, wastewater, energy, gas and telecommunications providers stating that those services are available to land within the investigation area. Comments received from infrastructure agencies (see section 12 of this report) as part of former section 62 consultation indicate that all necessary services and public infrastructure could be extended to the site.

The subject rezoning proposal involves amendments to zoning boundaries based on the requirement for minor filling to support a wastewater pump station at the Western extent of the existing R1 General Residential zone.

Visual Impact Assessment

Visual impact was identified in the MUSS 2008 (p. 86) as a key issue requiring significant consideration as part of investigations for the subject site. This is due to the cleared, elevated nature of the land and the potential for future development to be seen some distance away from the site. Council has undertaken an assessment of visual impact, which included consideration of land already approved for residential subdivision immediately North of the subject site. Council is satisfied that the scale and extent of development proposed for the site will not impact detrimentally on views to the site. Furthermore, the development is considered to be of similar context and scale to existing residential development in the locality.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal will achieve positive social and economic outcomes for the residents of Bolwarra, and Maitland, in the wider context of the local economy.

Council considers that the following social and economic benefits could result from this planning proposal:

- Improved management of the existing wetlands "buffer" within the site, obtained through a reduction in the minimum lot size of part of the E3 Environmental Management zone and future private ownership and management of the majority of this land;
- The provision of additional urban residential land supply within the Maitland LGA to cater for the growing local population;

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

- The site has exhausted its previous use as a HWC Wastewater Treatment Plant since the land was disposed of as surplus land by HWC in 2005;
- Improved linkages between the site and adjoining residential subdivisions, as well as the potential for improved public transport outcomes and linkages between Bolwarra and the Maitland CBD;
- An overall net community benefit for existing and future residents of Bolwarra and the Maitland LGA, due to dedication of land adjoining the Hunter River, which could result in improved pedestrian and cycleway links between adjoining residential land to the North of the site, and the Bolwarra Sporting Complex/Bolwarra Road to the South of the site.

Aboriginal Archaeology

The MUSS 2008 (p. 84) stated that the King Tom burial site is located to the South of the site. The need for further Aboriginal heritage investigations within the site was highlighted in the MUSS, due to this known item being located in the vicinity of the site.

The investigation area required a complete Aboriginal heritage impact assessment to determine whether the locality contained any cultural artefacts. As stated above, this was triggered largely due to the presence of the King Tom Memorial located South-east of the site, and the history of Aboriginal artefacts found to the North of the site. However, the proximity to the Hunter River and the presence of the wetland located in the centre of the site also suggested a high likelihood that Aboriginal artefacts may be present within the site. The assessment was undertaken in accordance with DECCW's requirements and included mapping to identify artefacts within the study area. The assessment listed locations of PADs and identified test locations.

Environmental studies submitted for the rezoning proposal identified that comments were not received from Mindaribba LALC regarding any potential feedback for the proposal. A dialogue of correspondence was provided in the submitted environmental studies, which included several attempts at contacting Mindaribba LALC representatives. The most recent request for comments was made on 24 May 2010 by RPSHSO, who prepared the Aboriginal heritage impact assessment. Any comments that are received from this point in time that may identify issues with the proposal in regards to Aboriginal heritage are to be factored into the rezoning proposal. It is anticipated that the Gateway determination would require consultation with Mindaribba LALC. In any case, the original rezoning proposal that was gazetted for the subject land demonstrated that any potential impacts were acceptable.

European Heritage

The Bolwarra Heritage Conservation Area (identified under the MLEP 2011) exists to the South of the subject site. The MUSS 2008 reinforced the need to consider integration of new development adjacent to this heritage conservation area.

A European heritage and impact assessment report was prepared for the original rezoning proposal. The report identified how the rezoning proposal took into consideration issues such as the protection of views to and from the Bolwarra Heritage Conservation Area, buffers between heritage items and future urban development, and views to and from Oakhampton Cemetery to the West of the site beyond the Hunter River. The report demonstrated how the proposal adequately considered views and visual buffers, topography and separation distance between the site and the heritage conservation area.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)**Section D – STATE and COMMONWEALTH INTERESTS****11. Is there adequate public infrastructure for the planning proposal?**

This planning proposal is not considered to place significant additional demands on the public infrastructure and general infrastructure needs of the locality, given the size and scale of future anticipated development within the site. A portion of the land was rezoned in 2011 to accommodate the Bolwarra URA.

Government agencies were consulted as part of the former section 62 consultation process, and following the Gateway determination which listed the relevant authorities to consult. Comments received from these agencies are summarised in section 12 below. Advice received from relevant government agencies indicated that the site can be serviced by all adequate public infrastructure, subject to necessary developer contributions and agreements where applicable.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

As part of the original rezoning proposal, advice was sought from government agencies and public authorities who may be affected by a zoning and development change in the Bolwarra URA.

The following is a summary of the advice received during the consultation period for the original rezoning proposal:

NSW Office of Water

The NSW Office of Water (NOW), formerly the Department of Water and Energy, did not object to the proposal. One of the key matters raised by the NOW included the need to investigate the impacts of prior site contamination on the existing lagoon and groundwater, given the historic use of the site as a wastewater treatment plant by HWC. Investigations into contamination were undertaken as part of the environmental assessment for the proposal, with results indicating that the site is, overall, suitable for future residential development.

The NOW outlined the need to protect riparian areas by implementing core riparian zones (CRZs) and vegetation buffers to provide a suitable transition area between proposed residential development and the existing lagoon. According to these comments from NOW, the separation distance between the proposed extent of the R1 General Residential zone and the E2 Environmental Conservation zone will therefore need to meet the requirements for what are now termed Vegetated Riparian Zones (VRZs).

Following the Gateway determination, NOW were again consulted, and additional comments were provided to Council. These included the need to consider (i) water collection, water extraction and on-site effluent disposal for land adjoining riparian areas; (ii) appropriate stormwater management for land adjoining watercourses; and (iii) appropriate groundwater licensing. These comments are consistent with the proposed zoning for the site and will be incorporated into future assessment of any DA for subdivision at the site.

Office of Environment and Heritage

While OEH (formerly DECCW) did not object to the proposal, several key issues were outlined in their correspondence. These predominantly related to ensuring appropriate consultation occurred with local Aboriginal stakeholder groups as part of the archaeological assessment process. General comments were provided relating to flora and fauna assessment, land contamination, stormwater impacts, climate change, watercourses, soil, flooding, air, noise and odour. It is considered that these matters have been adequately

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

addressed in the environmental studies submitted with the original rezoning proposal. The environmental studies included an Aboriginal archaeology assessment, flora and fauna assessment, contamination assessment, stormwater and flooding assessment, noise assessment, and comments covering the residual matters raised in DECCW's correspondence.

The response from DECCW following the Gateway determination identified that no further comments were offered in addition to those received by Council as part of original s62 consultation for the proposal.

Roads and Maritime Services (RMS)

RMS did not object to the proposal, subject to satisfactory road infrastructure arrangements being made. The RMS had required that the developer enter a Voluntary Planning Agreement (VPA) or Deed Containing Agreement (DCA) for contributions towards designated State public infrastructure (State roads) prior to development occurring at the site. **Appendix 3** of this planning proposal provides correspondence from the Department of Planning & Infrastructure that rescinds the need for this agreement with the RMS, as the site is no longer deemed to warrant contributions towards State infrastructure.

Rural Fire Service (RFS)

The RFS did not object to the proposal at s62 consultation stage, or following the Gateway determination. Any future development at the site is required to satisfy the requirements of *Planning for Bushfire Protection 2006*. No additional comments were made as part of the response from RFS following the Gateway determination.

Hunter Water Corporation (HWC)

HWC did not object to the proposal. HWC expects that sufficient water pressures will be available to meet minimum requirements during peak day demand and fire fighting purposes.

HWC has indicated that there is sufficient capacity at the Farley Wastewater Treatment Works to accommodate the additional loads from future proposed residential development at the site. Given that the Eastern portion of the site drains away from the existing gravity sewer network to a low point within the development area, a new developer funded Waste Water Pump Station is required to be constructed.

Telstra

Telstra did not raise any objections to the proposal.

Energy Australia

There are no major constraints that would preclude Energy Australia from providing electricity to the site.

Forests NSW

In accordance with the requirements of the Gateway determination, Forests NSW were consulted regarding the proposal. Correspondence from Forests NSW identified that the rezoning of the site does not affect Crown timbered lands or the State forest estate, therefore no further comments were provided.

PART 4: COMMUNITY CONSULTATION

In accordance with Section 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. Given that the proposal involves only minor amendments to the extent of the existing Bolwarra URA, Council deems that the planning proposal is of low impact. The planning proposal should therefore be exhibited for a minimum of 14 days.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

In accordance with Council's adopted *Maitland 2021 Strategic Community Plan*, consultation on the proposed rezoning will have the objective of informing and receiving 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 Central Maitland 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 rezoning proposal.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the proposed rezoning 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.

Project Timeline

The following timeframes are considered approximate, but are included in accordance with the Department's publication "*A Guide to Preparing Planning Proposals*".

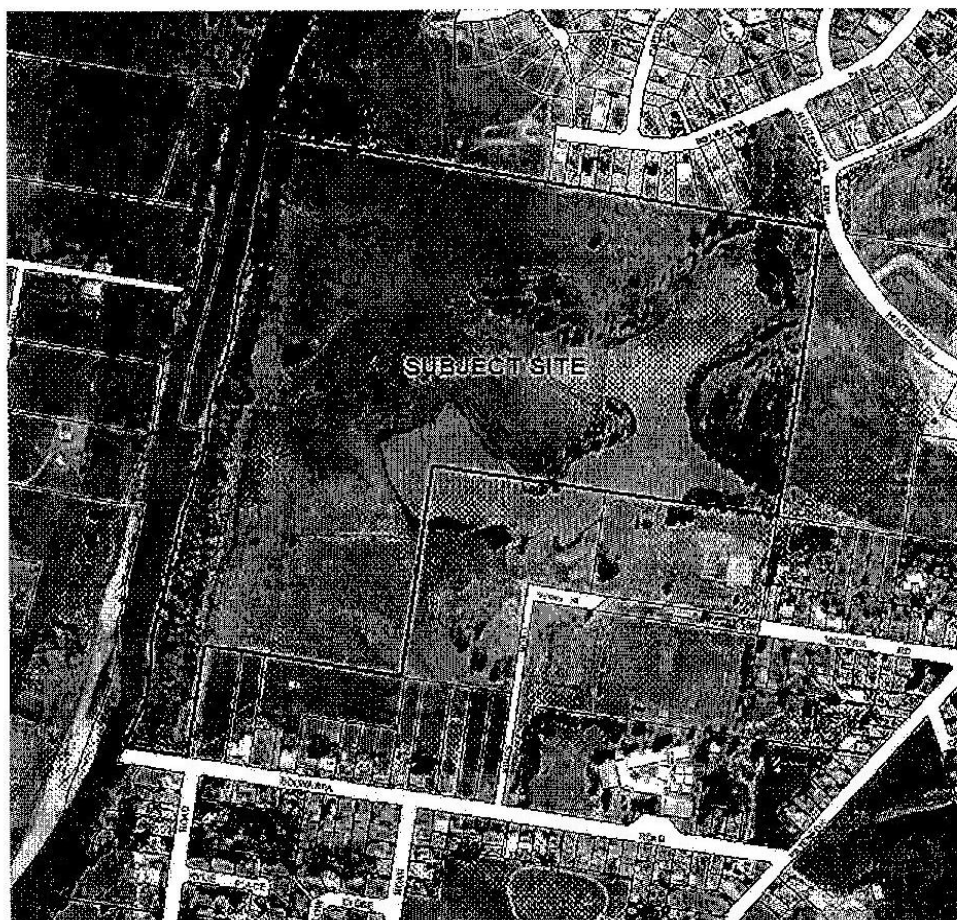
- Anticipated Gateway determination date: 22 November 2013
- Timeframe for completion of required technical information: N/A – minor changes only
- Timeframe for government agency consultation: to be undertaken with public exhibition (see below)
- Commencement & completion dates for public exhibition: 4 December 2013 – 18 December 2013
- Date of public hearing: N/A
- Timeframe for consideration of submissions: 2 weeks
- Timeframe for consideration of a proposal post-exhibition: 2 weeks
- Date of submission to DOPI to finalise LEP: 14 February 2014
- Anticipated date RPA will make plan: 14 March 2014
- Anticipated date RPA will forward to DOPI for notification: 14 March 2014

Overall, it is anticipated that the Gateway determination would be for a 6 month period for this planning proposal, provided that the information outlined in this planning proposal is deemed to be all that is required by the Department in order to process the LEP amendment. This timeframe is considered appropriate as a DA for residential subdivision of the land is currently being assessed by Council, but cannot be determined until the extent of the R1 General Residential zone has been finalised as part of the subject rezoning proposal.

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

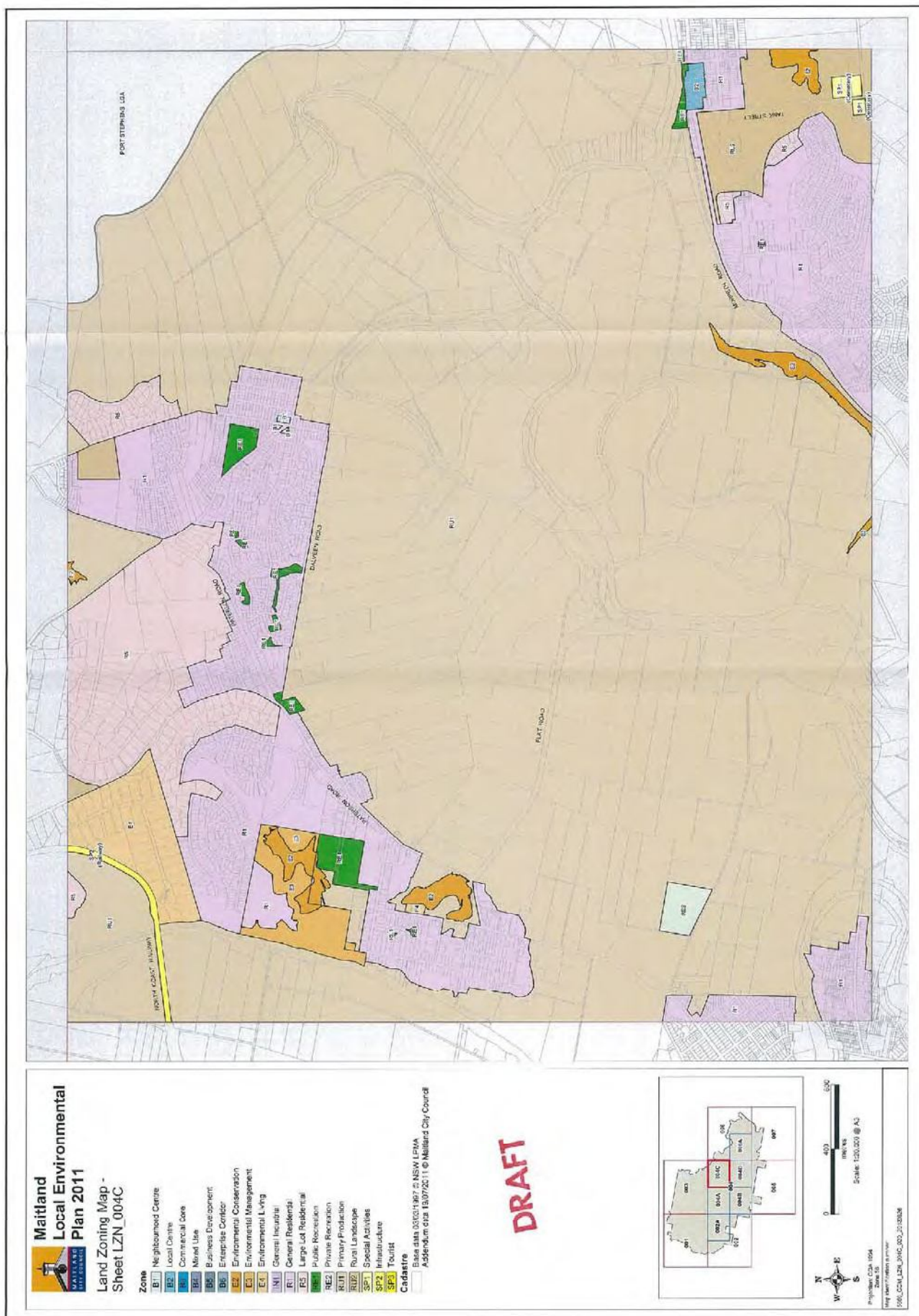
Appendix ONE
Location Map

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

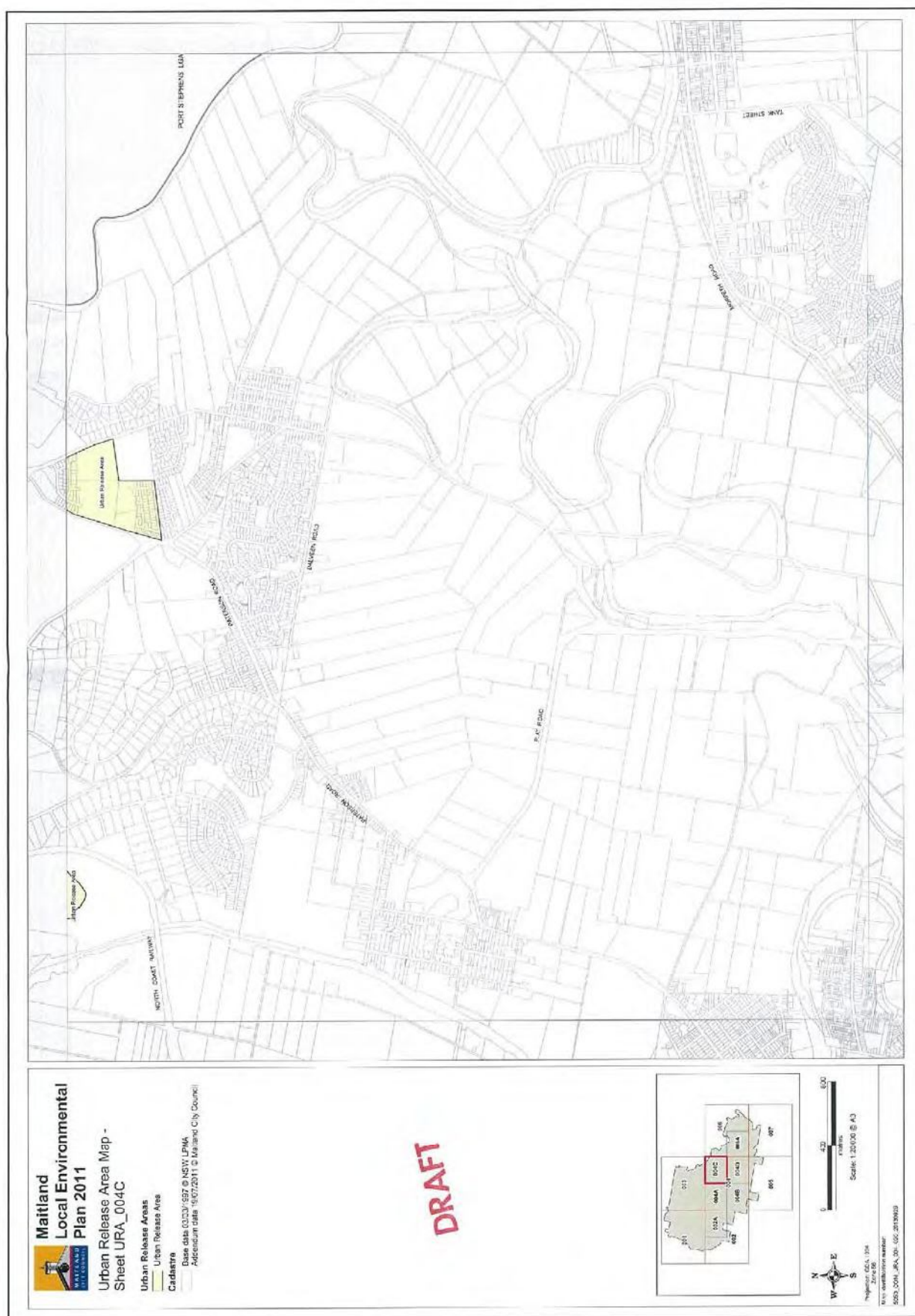


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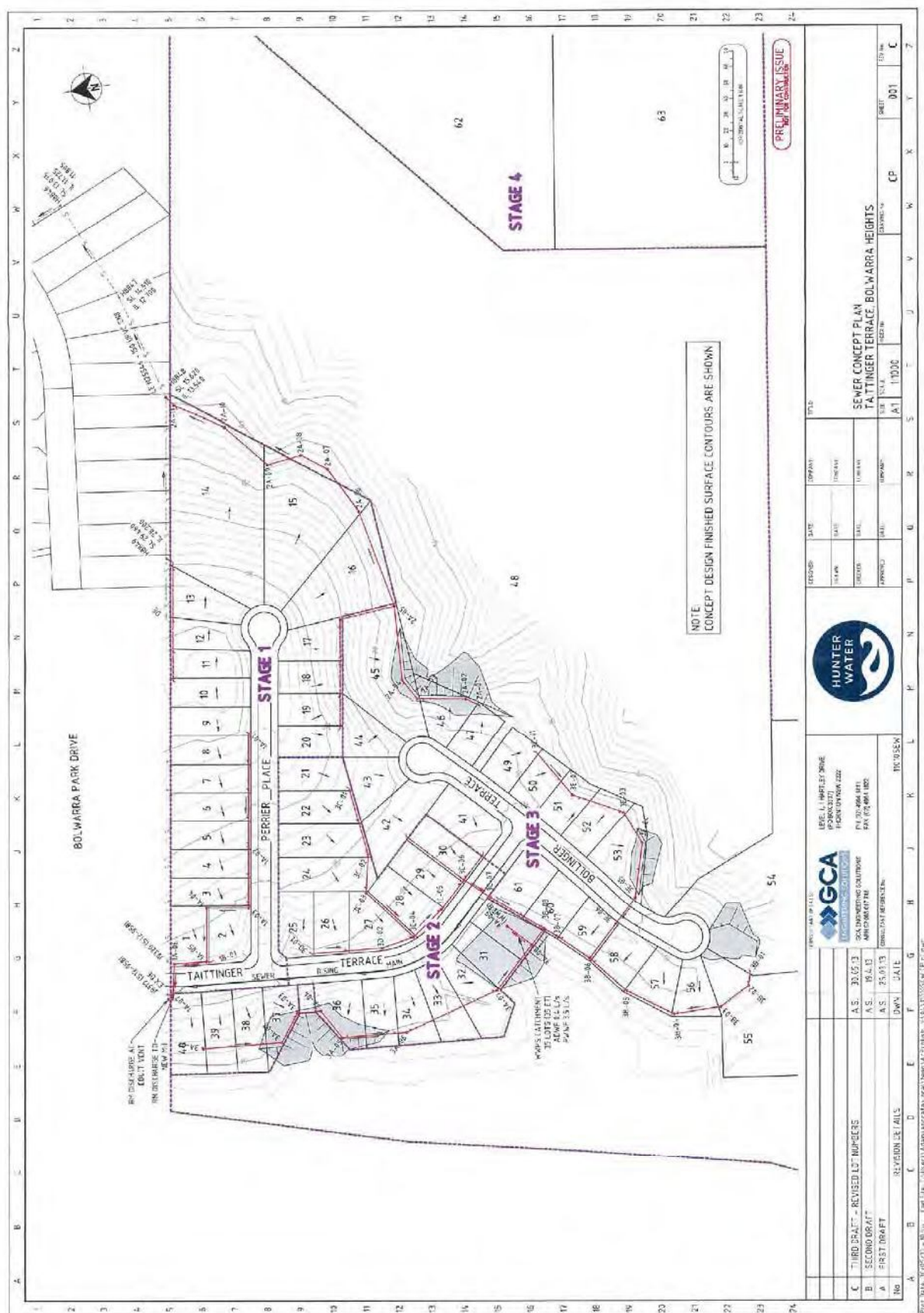
Appendix TWO
Proposed MLEP 2011 Amendment Maps &
Explanatory Maps

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

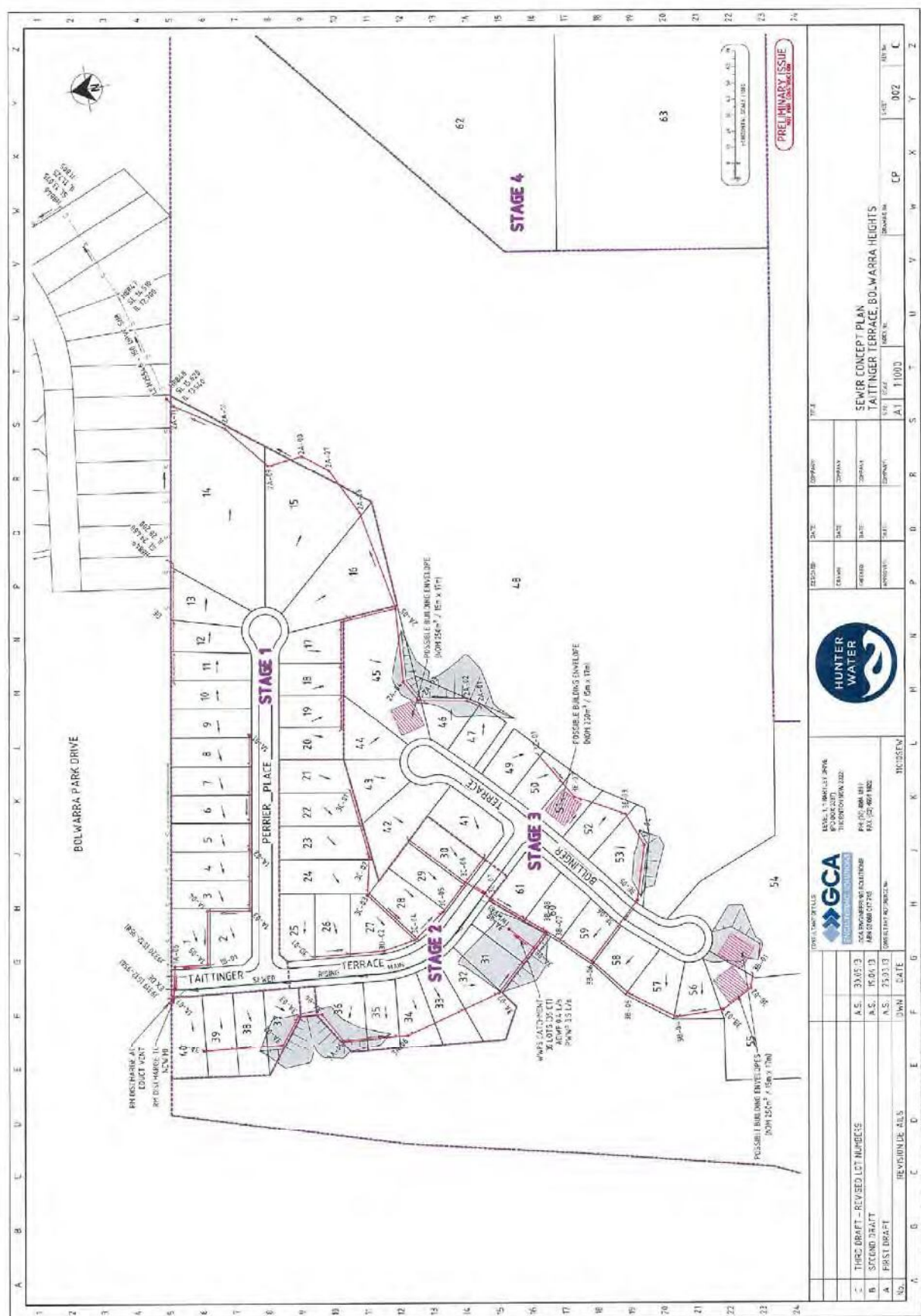
AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
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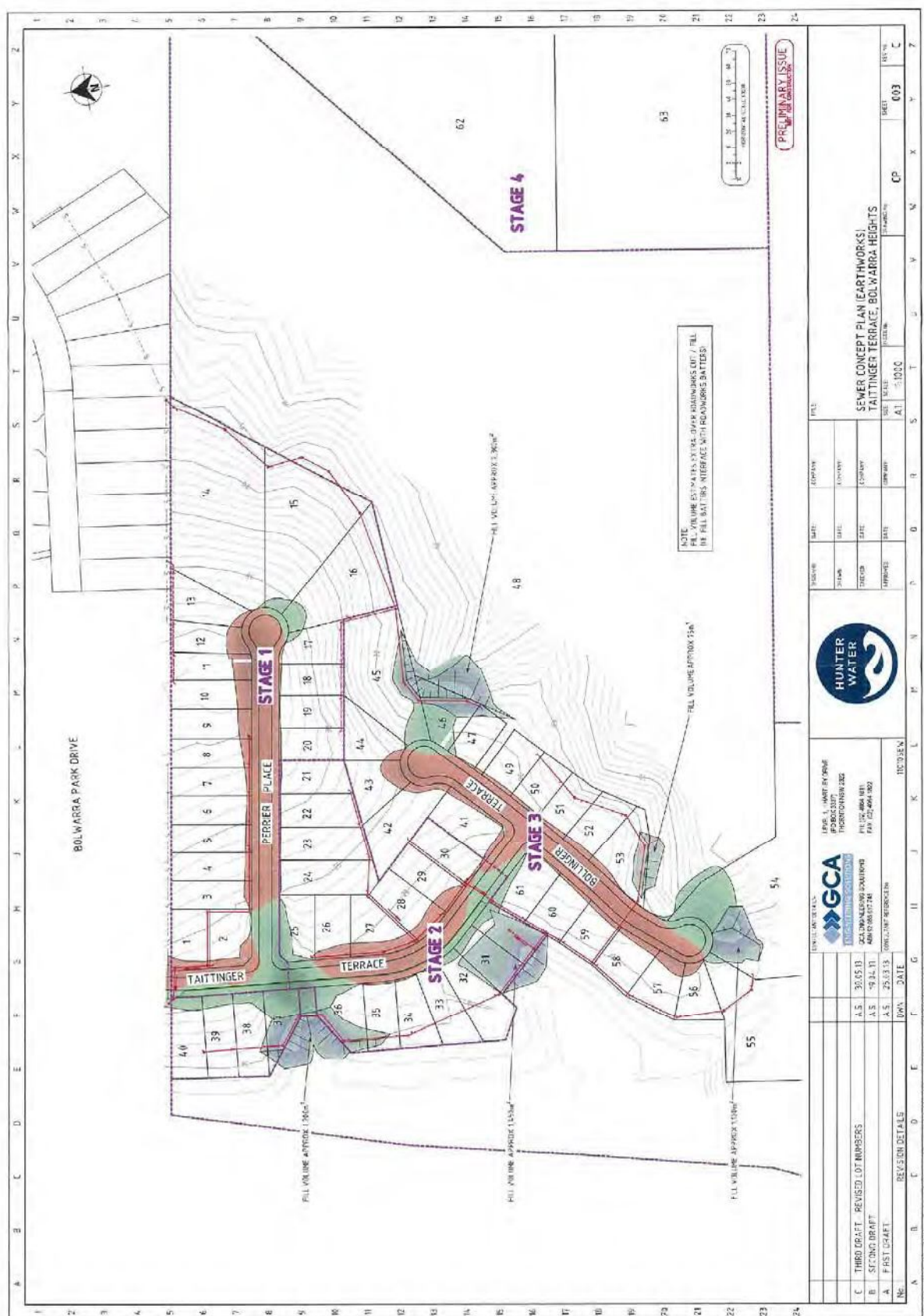
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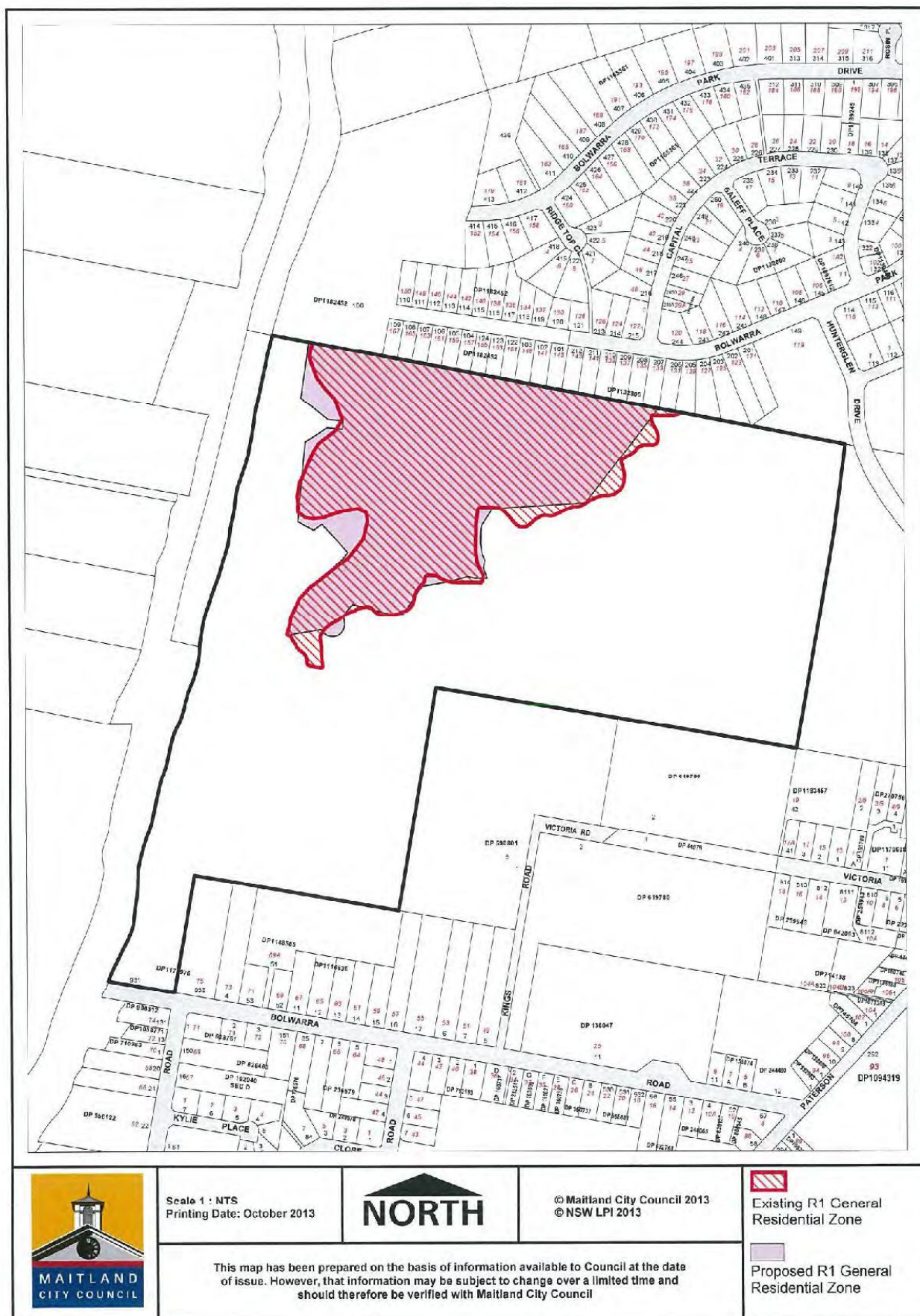


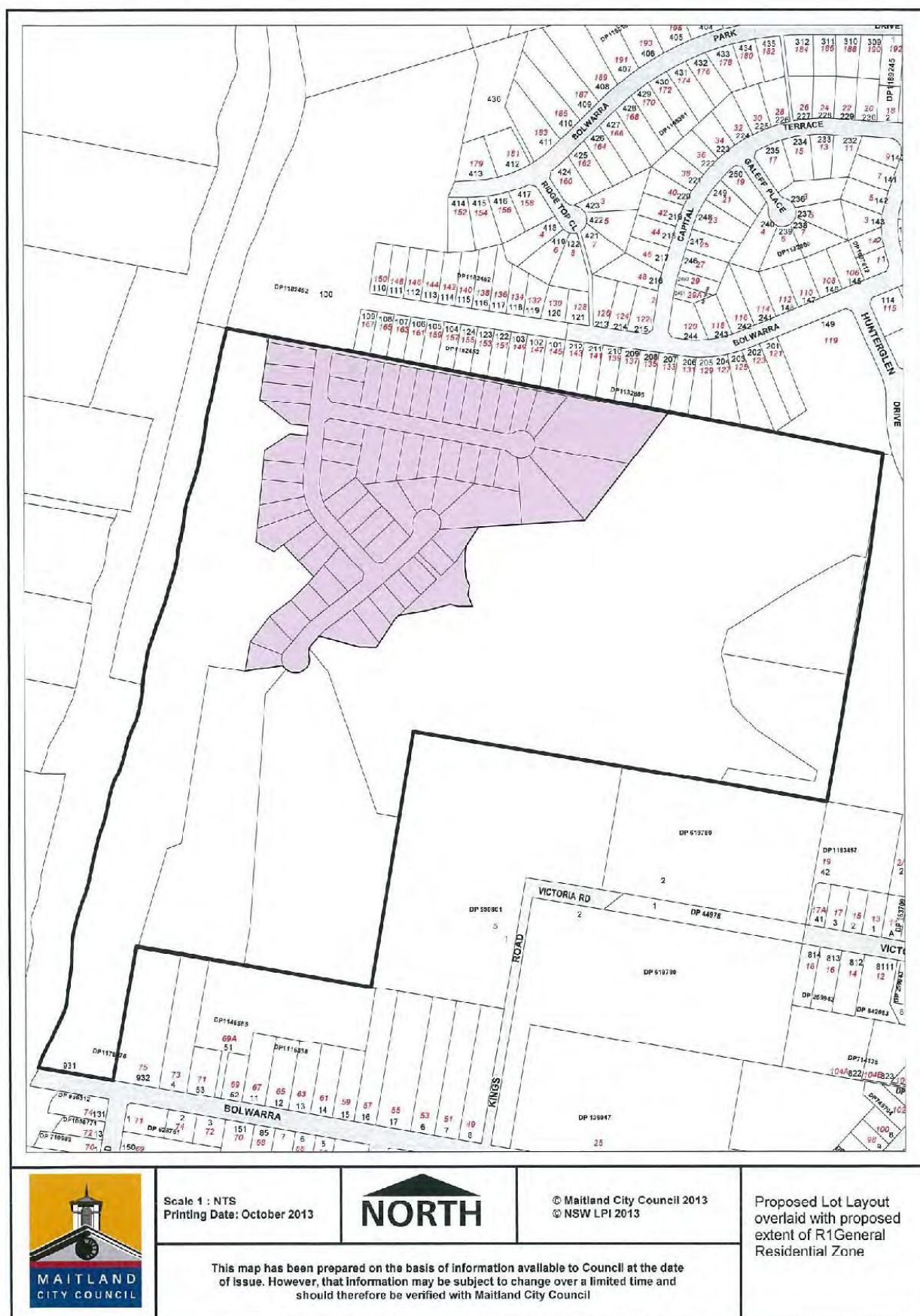
AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
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AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
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Appendix THREE
NSW Department of Planning & Infrastructure
Correspondence

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)Planning &
Infrastructure

Mr Brad Everett
Land Use Director
Hunter Land
PO Box 3042
THORNTON NSW 2322

13/07450

Dear Mr Everett

I refer to your letter dated 29 April 2013, concerning the Bolwarra Urban Release Area (URA) and contributions towards state infrastructure.

I note your request to review whether development within the Bolwarra URA should be subject to the requirement to contribute towards state infrastructure, as per clause 6.1 of the *Maitland Local Environmental Plan (LEP) 2011*.

I have reviewed the documentation regarding the Bolwarra URA. I have also reviewed documentation regarding the Rathluba and Largs precincts.

As a result of this review, I have formed the position that development within the Bolwarra URA should not be subject to the requirement to contribute towards state infrastructure. This is primarily due to the relatively low number of residential lots proposed for development in the precinct.

Accordingly, any referrals from Maitland Council requesting satisfactory arrangement certification under clause 6.1 of the Maitland LEP in relation to the Bolwarra precinct will be processed in accordance with the above position.

Please note that the Department is preparing guidelines on the use of satisfactory arrangement clauses for potential URA's. This should improve the consistency in approach and methodology regarding satisfactory arrangements processes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'af'.

Andrew Jackson
Executive Director
Infrastructure and Planning Strategies

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

Planning, Environment and Lifestyle Reports

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA

Correspondence issued by DOPI

Meeting Date: 22 October 2013

Attachment No: 2

Number of Pages: 3

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

Our Ref. RZ07003 (769411)

Your Ref.

Phone Enquiries: 4934 9729

10 February 2011

NSW Department of Planning
Hunter Regional Office
PO Box 1226
NEWCASTLE NSW 2300
Attn: Ms Susan Blake

Dear Ms Blake

**RE: Request for Extension of Time for Finalisation of LEP Amendment -
Bolwarra Investigation Area**

The Department of Planning notified Council on 10 February 2011 that a request for extension of time to finalise the subject LEP amendment be confirmed, given that the timeframe for finalising the LEP had expired. The Gateway determination issued by the Department identified that the amendment should be completed 6 months from the week following the date of the Gateway determination (2 August 2010). Council forwarded the Section 57 report including planning proposal, draft LEP map and Gateway determination on 26 November 2010, as a formal request for the Department to finalise the plan. The target completion date was yesterday, 9 February 2011. Council was notified by the Department on 28 January 2011 that the site was required to be mapped as an URA, just 12 days prior to the target completion date. This is deemed unreasonable, given that discussions about the status of the site as an URA should have taken place well before this time. The status of the site as an URA triggers significant implications for the land, such as the provisions of Clause 55 of the MLEP 1993 relating to state public infrastructure, and as noted by the Department, State Infrastructure Contribution (SIC) requirements.

Council is now required to seek an extension of time in which to ask the Department to finalise the LEP, however wishes to outline the reasons for the request being made:

- A senior planner (Mr James Shelton) from the Department of Planning's regional office contacted the undersigned on 28 January 2011 to inform Council that the Department's Infrastructure Co-ordination team advised that the Bolwarra Investigation Area needed to be mapped as an Urban Release Area. While it is understood that this was a direction issued by the Department, Council wishes to express that this was an unexpected

Ph: (02) 4934 9700 Fax: (02) 4933 3209 DX21813 Maitland Email: mcc@maitland.nsw.gov.au www.maitland.nsw.gov.au
All correspondence should be addressed to: General Manager P.O. Box 220 Maitland NSW 2320
Administration Building 285-287 High Street Maitland NSW 2320

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)

requirement to be placed on the LEP so far into the Gateway process and a requirement that has subsequently stalled the making of the LEP. Without this requirement the LEP would more than likely have been gazetted within the required timeframe;

- After this time (28 January 2011) there were obvious concerns from Council over the potential need to re-exhibit the amendment (re-exhibition would have not been completed before the target completion date in any case), given the implications of the site being mapped as an URA and associated requirements under Clause 55 of the MLEP 1993;
- Council subsequently informed the applicant, who required clarification over this request, including the financial implications for this direction (notably any SIC requirements), particularly given that finalisation of the amendment was imminent, and prior to this direction from the Department, was more than likely to be gazetted within the target completion timeframe.

Given the Department's request to map the site as an URA so late in the rezoning process, Council respectfully requests that the Department acknowledge the delay caused in having the amendment finalised and permit an extension of four (4) weeks, or a suitable timeframe that the Department feels it can finalise the LEP amendment. It needs to be highlighted that the issue of mapping the URA has arisen in the latter stages of the rezoning process, nearing finalisation of the plan. There should be some allowance made by the Department to expedite the amendment given that the issue has potential implications for Council, the landowner and the community.

If you have any questions, or require further information to assist in your assessment of this planning proposal, please contact Josh Ford, Strategic Town Planner on 4934 9729 or in his absence Ms Monica Gibson on 4934 9825.

Yours Sincerely



Josh Ford
Strategic Town Planner

Cc Mr Tony Proust, Senior Planner RPSHSO

AMENDMENT TO MAITLAND LOCAL ENVIRONMENTAL PLAN 2011 - FORMER BOLWARRA URBAN RELEASE AREA
(Cont.)**Planning &
Infrastructure**

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