

Maitland Local Environmental Plan 2011- Flood Planning Maps Amendment

Proposal Title : **Maitland Local Environmental Plan 2011- Flood Planning Maps Amendment**

Proposal Summary : **Flood Planning Maps amendment to reflect updated flooding information**

PP Number : **PP_2014_MAITL_001_00**

Dop File No : **14/15757**

Proposal Details

Date Planning Proposal Received : **03-Oct-2014**

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 : **1. Various**

Suburb : **2. Various**

City : **Maitland Local**

Postcode :

Land Parcel : **Various floodprone properties across the Local Government Area**

DoP Planning Officer Contact Details

Contact Name : **Ken Phelan**

Contact Number : **0249042705**

Contact Email : **ken.phelan@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 :

Release Area Name :

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) :	0.00	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 : **The PP was originally received 16 September 2014 however additional information was requested and received 3 October 2014. It is this latter date that the PP is considered adequate.**

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **To amend the Flood Planning Maps in the Maitland Local Environmental Plan 2011 to reflect updated information**

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

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

Comment : **Amends all Flood Planning Maps contained within the Maitland Local Environmental Plan 2011 to reflect the Flood Planning Level informed by the 'Hunter River: Branxton to Green Rocks Flood Study 2010' and other supporting flood studies which, collectively, map the 1-in-100 year Average Recurrence Interval plus 0.5m freeboard Flood Planning Level.**

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.4 Oyster Aquaculture

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

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- 3.3 Home Occupations
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

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

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

d) Which SEPPs have the RPA identified? **SEPP (Infrastructure) 2007**

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Given the extensive scope of the mapping and coincidence of the exhibition with summer holidays, a minimum 56 day exhibition is proposed by Council. As a minimum the Department considers 28 days adequate. Given the potential for change adversely affected landowners should be advised. Council may elect to undertake extensive consultation if they wish.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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 :

Maitland Local Environmental Plan 2011 was gazetted on 16 December 2011.

Assessment Criteria

Need for planning proposal :

Mapping inconsistencies were noted between the current Flood Planning Maps in the Maitland Local Environmental Plan 2011 and information from the 'Hunter River: Branxton to Green Rocks Flood Study 2010'.

The current Flood Planning Maps contained in the Maitland Local Environmental Plan 2011 reflect outdated flood mapping from before the Flood Study 2010 was adopted by Council.

The New South Wales Floodplain Development Manual 2005 identifies the need for local Councils to "...Incorporate appropriate planning provisions of Floodplain Risk Management Plans into Local Environmental Plans, Development Control Plans and development control policies." (Floodplain Development Manual 2005:11).

While the Draft Floodplain Risk Management Plan has not yet been adopted by Council, the flood study, Hunter River: Branxton to Green Rocks Flood Study 2010 was adopted by Council on 27 July 2010. The action to update the Maitland Local Environmental Plan 2011 Flood Planning Maps is seen to be consistent with the Floodplain Development Manual 2005 and the adopted 2010 Flood Study.

This broader context and the flood study should be exhibited with the proposal to demonstrate the need for the proposal and justify its scope.

Consistency with strategic planning framework :

☐ **Lower Hunter Regional Strategy, 2006**

Page 38 of the Lower Hunter Regional Strategy discusses the issue of flooding as a natural hazard, most relevantly:

'Appropriate planning provisions will be incorporated in Local Environmental Plans consistent with the Floodplain Development Manual and Council's risk management plan to minimise risk from flooding.'

(Lower Hunter Regional Strategy, 2006, 2006:38); and

'Local Environmental Plans will zone areas subject to high hazard to reflect the limitations of the land.' (Lower Hunter Regional Strategy, 2006:39).

The proposal is consistent with the Lower Hunter Regional Strategy, 2006.

☐ **Council's Community Strategic Plan**

Council's community strategic plan 'Maitland +10' states:

Our Built Space-

Our infrastructure is well-planned, integrated and timely, meeting community needs now and into the future.

Our Natural Environment-

The potential impacts of our growing community on the environment and our natural resources are actively managed.

☐ **Applicable State Environmental Planning Policies**

State Environmental Planning Policy (Infrastructure) 2007

While some parts of this State Environmental Planning Policy relate to flooding, this planning proposal does not seek to change land uses within any zone covered by the Flood Planning Maps. However Public Authority infrastructure works otherwise exempt from development consent under this SEPP require notification to council where they are located within flood liable land.

It would be appropriate therefore to advise Public Authority asset owners of changes in the flood liability status of their land, easements and assets.

The proposal will be consistent with State Environmental Planning Policy (Infrastructure) 2007.

.....
STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007 - REG 15

Consultation with councils-development with impacts on flood liable land
15 Consultation with councils-development with impacts on flood liable land

(1) In this clause,

"flood liable land" means land that is susceptible to flooding by the probable maximum flood event, identified in accordance with the principles set out in the manual entitled Floodplain Development Manual: the management of flood liable land published by the New South Wales Government and as in force from time to time.

(2) A public authority, or a person acting on behalf of a public authority, must not carry out, on flood liable land, development that this Policy provides may be carried out without consent and that will change flood patterns other than to a minor extent unless the authority or person has:

(a) given written notice of the intention to carry out the development to the council for the

area in which the land is located, and
(b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.

.....

☐ **Directions Under Section 117 of the Environmental Planning and Assessment Act**

While Council cites Section 117 Directions 1.1, 1.2, 1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 3.1, 3.2, 3.3, 4.1, 4.2, 4.3, 4.4 and 6.2, the fact that no land use changes or land reservations are proposed, means that none of these are triggered by the proposal.
In relation to Direction 5.1 Implementation of Regional Strategies, the proposal is consistent with this Direction.

Environmental social
economic impacts :

☐ **Environmental, Social and Economic Impact**

As the proposal is essentially about providing state-of-knowledge flood information, the impact will be across all three aspects of sustainability in that better-informed planning decisions are likely to result from government agencies and the private sector using the information. A net gain in community safety and resilience is likely to flow from dissemination of this knowledge.

As an information update, there is no inherent implication for funding of public infrastructure.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	6 months	Delegation :	DDG
Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage		

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 :

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Documents

Document File Name	DocumentType Name	Is Public
Council Request Email (received 12 09 2014).pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
OC_09092014_AGN_AT.pdf	Proposal	Yes
Council Minute.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.4 Oyster Aquaculture
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
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- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

Additional Information :

- 1) Council exhibit the 'Hunter River: Branxton to Green Rocks Flood Study 2010' alongside this planning proposal.
- 2) Community consultation for a period of 28 days
- 3) Consultation with Office of Environment and Heritage
- 4) Council has requested that they not be given delegations to complete this proposal.

Supporting Reasons :

A planning proposal is required to amend the current maps to reflect the flood extent informed by data contained in the 2010 Flood Study and flood studies from adjoining Local Government Areas.
This update of flood planning maps will centralise flood planning information in one place, the Local Environmental Plan, rather than the public and council staff needing to access both that plan and the council-adopted 'Hunter River: Branxton to Green Rocks Flood Study 2010' in order to gain a full picture.

Signature:



Printed Name:

KOFLAHERTY

Date:

9/10/14.

