

PLANNING PROPOSAL

Amendment to the Maitland LEP

Lochinvar Urban Release Area

**Version 2.0
09.03.11**



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Version

Version 1.0 – s.55 Pre-Gateway report to Council 27 July 2010

Version 2.0 – s.57 Post-exhibition report to Council 8 March 2011

INTRODUCTION

In accordance with Section 57 of the Environmental Planning and Assessment Act 1979, this planning proposal has been prepared to rezone land within the Lochinvar URA for a variety of purposes, including urban, commercial, environmental, public and recreational purposes. A location map showing the Lochinvar URA is provided as **Appendix 1** to this report.

The Lochinvar URA was initially identified in the Lower Hunter Regional Strategy 2006 (LHRS 2006) as a 'Proposed Urban Area' (LHRS 2006:12). Following on from this, Council and the Department of Planning funded environmental studies to inform the Lochinvar Structure Plan in 2007. Additionally, the Lochinvar URA has been identified in the Maitland Urban Settlement Strategy (MUSS) as a Category 1 site since the inception of the site in the LHRS in 2006. The last review of the MUSS in 2008 identified the site as Category 1 Residential land (0-5 year development timeframe). **Figure 1** below is taken directly from the LHRS 2006 (p. 12-13) and illustrates the location of Lochinvar in the context of the Lower Hunter Region (note the 'Proposed Urban Area' of Lochinvar indicated by the red outline and white coloured area).



Figure 1: Lochinvar in the context of the Lower Hunter Region (source: LHRS 2006)

The planning proposal signals Council's intent to progress rezoning of the Lochinvar URA and continues on from the work undertaken by DoP regarding the implementation of the LHRS 2006, and in partnership with Council during preparation of the Lochinvar Structure Plan 2007. The proposal is consistent with the MUSS 2008, which has been endorsed by DoP. This amendment will support the strategic approach of both DoP and Council to accommodating significant population growth within the Lower Hunter region and the Maitland LGA.

PART 1: OBJECTIVES or INTENDED OUTCOMES

The objectives of this planning proposal are:

- *To rezone land within the Lochinvar URA to enable a variety of land uses, including residential, commercial, environmental, public and recreational;*
- *To enable the sequencing of land to support the sustainable growth and development of the Lochinvar URA;*
- *To minimise environmental impacts associated with rezoning the land to urban purposes, including acoustic impacts from the Main Northern Railway and the New England Highway, and the protection of existing riparian areas and vegetation communities within the site;*
- *To promote the use of public transport by accommodating appropriate linkages and dedicating sufficient areas to support public transport infrastructure and services; and*
- *To promote the logical extension of all necessary public infrastructure such as electricity, reticulated water, sewer and roads to the site.*

PART 2: EXPLANATION of PROVISIONS

It is proposed to amend the Maitland Local Environmental Plan 1993 through an alteration to the zoning map and minor addition to the wording of cl. 5(1). The map, which outlines the area to be rezoned is included as **Appendix 2**.

Therefore the Maitland Local Environmental Plan is proposed to be amended by inserting, in appropriate order in the definition of “**The map**” in clause 5 (1) the following words:

Maitland Local Environmental Plan 1993 (Amendment X) – Lochinvar Urban Release Area Map

Maitland Local Environmental Plan 1993 (Amendment X) – Lochinvar Urban Release Area Zoning Map

Given the status of the site as an Urban Release Area (URA), the provisions of Part 12 of the Maitland LEP 1993 will apply to the land. These include satisfactory arrangements for the provision of utility infrastructure and the preparation of a Development Control Plan (DCP) for the site.

Whilst it is Council's intention for the planning proposal to form an amendment to the Maitland LEP 1993, a new comprehensive local environmental plan is currently being prepared (Maitland Local Environmental Plan 2011). The Draft Maitland LEP 2011 has been exhibited and has recently been forwarded to the Department of Planning for preliminary legal and policy review prior to Council endorsement for gazettal by the Minister for Planning. It is therefore appropriate to consider the relationship between the zones of the Maitland LEP 1993 and zones that could apply under the Draft Maitland 2011 LEP.

Should the rezoning proceed as an amendment to the Maitland LEP 2011, the objectives of the proposed amendment would be achieved through an alteration to the zoning map, lot size map and floor space ratio map. If forming an amendment to the Maitland LEP 2011, the Maitland Local Environmental Plan 2011 is proposed to be amended by:

- (1) amending sheet 003 of the **Land Zoning Map** to show the rezoned areas of the site and inserting in the relevant clause of the written instrument:

Maitland Local Environmental Plan 2011 (Amendment X) – Lochinvar Urban Release Area

While the land known as the Lochinvar URA is to be rezoned under the Maitland LEP 1993, the following equivalent zones will apply under the Maitland LEP 2011:

- 2(a) Residential to R1 General Residential
 - 3(a) General Business to B1 Neighbourhood Centre
 - 7(c) Environmental Protection to E3 Environmental Management
 - 6(a) Public Recreation to RE1 Public Recreation
- (2) amending sheet 003 of the **Lot Size Map** to show the minimum lot size for the areas within the site to be zoned R1 General Residential and E3 Environmental Management
- The minimum lot sizes that will apply under the Maitland LEP 2011 for the subject land are:
- 450m² for R1 General Residential zone
 - 40ha for E3 Environmental Management zone
- (3) amending sheet 003 of the **Urban Release Area Map** to show the minor amendments to the Lochinvar URA boundaries following exhibition of the planning proposal (the Draft MLEP 2011 was exhibited showing the Lochinvar URA comprising the same boundaries as the LSP 2007).

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 Lochinvar URA has been identified in the Lower Hunter Regional Strategy (LHRS) 2006 as a 'Proposed Urban Area', identified on the LHRS Map (LHRS 2006:12-13). The MUSS has included the Lochinvar URA as a Category 1 investigation area for some time, and at the time of endorsement of the MUSS 2008, the site remained as a Category 1 investigation area. A copy of the relevant sections of the MUSS 2008 review edition and the Executive Summary map are included as **Appendix 3**.

The preparation of a planning proposal for the Lochinvar URA results from Council's ordinary meeting resolution of 25 November 2008, which stated:

THAT

1. *Council receive and note the rezoning request for land identified as "Lochinvar Estate" and "Lochinvar Green" and resolve to proceed with the rezoning of lands within the Lochinvar Structure Plan in conjunction with the preparation of the Maitland LEP 2011.*
2. *Council resolve to seek nominations for the establishment of a reference group to represent the landholders to guide the preparation of the LES, with a further report to Council to accept the nominations to the group and endorse the terms of reference for that group.*

The purpose of this resolution was to note that two rezoning proposals had been submitted for sites within the Lochinvar URA, which directly corresponds to all land identified in the Lochinvar Structure Plan. Council considered this the most appropriate way to avoid 'piecemeal' rezoning of land within the URA, since it was considered that one rezoning application for the whole site should be submitted to Council for review. A copy of this Council report and resolution is included with this planning proposal as **Appendix 4**.

As stated above, the Department of Planning endorsed the MUSS 2008 review edition in September 2009. Environmental studies relating to the Lochinvar URA were received by Council in February 2010 and Council officers made a detailed assessment of the information and conclusions contained in the reports. The matters addressed in these environmental studies are summarised under section 9 of this report.

This planning proposal will allow the rezoning of the Lochinvar URA to urban purposes, thereby meeting the objectives of the strategic studies and reports outlined above.

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

It is considered that an amendment to the Maitland LEP 2011 through the gateway process and preparation of this planning proposal is the most effective and timely method to achieve the vision and objectives of the LHRS 2006, MUSS 2008 and Lochinvar Structure Plan 2007.

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 rezoning proposal, since:

- Rezoning of the site will meet the objectives of the LHRS 2006 in regards to accommodating future urban land in Lochinvar;
- The proposal demonstrates consistency with Council's adopted land release strategy – the MUSS 2008 – where the site is identified as Category 1 land;
- The proposal is consistent with the Lochinvar Structure Plan 2007, thereby demonstrating to the community that intentions for proposed land use changes remain consistent with this policy; and
- rezoning land for a range of purposes within the URA will generate the necessary foundations to create and enhance a sense of neighbourhood and community in the locality.

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

The LHRS 2006 provides regional context in planning for population growth within the Lower Hunter region. The strategy discusses opportunities for urban release areas, infill development, centres and corridors, and employment generating lands. The LHRS 2006 (p.27) identifies that between 2006 and 2031 the Maitland LGA is projected to accommodate an additional 26,500 dwellings. It is anticipated that the majority of dwellings (21,500) will be contained within new urban release areas, while centres (2,000) and urban infill (3,000) development will comprise the remaining 5,000 dwellings. The LHRS 2006 identifies 'release areas' generally with an area greater than 50 hectares. The LHRS 2006 (p. 25) identifies the Lochinvar URA as a 'major release site' potentially capable of accommodating up to 5,000 dwellings. The proposal to rezone the land is consistent with the principles of the LHRS 2006, and the site is identified as a Category 1 investigation area in the MUSS 2008, which is an endorsed local strategy.

LHRS 2006 - Neighbourhood Planning Principles

The planning proposal is consistent with the neighbourhood planning principles outlined under the LHRS 2006 (p.26). These principles are as follows:

- A range of land uses to provide the right mix of houses, jobs, open space, recreational space and green space.
- Easy access to major town centres with a full range of shops, recreational facilities and services along with smaller village centres and neighbourhood shops.
- Jobs available locally and regionally, reducing the demand for transport services.
- Streets and suburbs planned so that residents can walk to shops for their daily needs.
- A wide range of housing choices to provide for different needs and different incomes. Traditional houses on individual blocks will be available with smaller, lower maintenance homes. Units and terraces for older people and young singles or couples.
- Conservation lands in-and-around the development sites, to help protect biodiversity and provide open space for recreation.
- Public transport networks that link frequent buses into the rail system.

The proposal complies with these principles since:

- o The rezoning proposes to accommodate a range of land uses for residential, commercial, recreational and public purposes.
- o While the proposal involves rezoning a portion of the site to commercial purposes, the site is also located in relatively close proximity to Rutherford Town Centre.
- o The proposal involves rezoning an area of the site to commercial purposes, which is likely to generate employment opportunities in the future.
- o The rezoning proposal includes a preliminary concept layout which identifies proposed road networks and illustrates the likely routes for residents to walk to shops, to be located on land identified as commercial purposes.
- o Given that the LHRS 2006 (p.25) has identified that the Lochinvar URA may potentially accommodate up to 5,000 dwellings, zoning the majority of the land for residential purposes is likely to provide for a range of housing types. The Lochinvar Structure Plan 2007 identifies low,

- medium and high density locations within the site. Further investigations, particularly those relating to noise and vibration, are required during precinct planning for the southern extent of the site to determine whether higher density of built form is appropriate in close proximity to the rail corridor.
- o The rezoning proposal considers biodiversity by applying environmental protection zones over riparian areas and important Endangered Ecological Communities (EECs) within the site. The application of these zones improves amenity and provides a sensible interface with urban development in these areas of the site.
- o As part of development proposed for the Maitland to Minimbah 3rd Railway Track project, Lochinvar Railway Station is intended to be upgraded. The improvements to this facility are expected to result in the long term use of this area of the site as a public transport hub servicing Lochinvar's residents and commuters. Further investigations are required in the southern extent of the site to determine the type of land uses that are appropriate in this area of the site, including the suitability of medium and high density residential development, which would likely influence the use of Lochinvar Railway Station.

The planning proposal is consistent with the Housing actions outlined under the LHRs 2006 (p.27-28), namely the following:

- Sufficient land and development capacity will be identified and rezoned to meet forecasted demands for an additional 115,000 dwellings between 2006 and 2031.
- Councils will revise their LEPs to be consistent with the identified urban footprint within the LHRs.
- Council's will revise their LEPs to be consistent with the dwelling capacity projections for their LGA.
- Implement an Urban Development Program to monitor housing supply and demand.
- Ensure that planning and design of new release areas is based on Neighbourhood Planning Principles.

The proposal complies with these principles since:

- o The proposal will assist in meeting Maitland City Council's dwelling capacity projections of 26,500 dwellings by 2031.
- o The proposal will amend the Maitland LEP 2011 to accommodate additional urban land to permit future residential development which will contribute to meeting dwelling capacity projections.
- o The proposal is consistent with the provisions of the MUSS 2008, which is an endorsed local strategy that assists in monitoring housing supply and demand.
- o The proposal is consistent with the Neighbourhood Planning Principles, which has previously been demonstrated through consideration of these principles in preparing the Lochinvar Structure Plan 2007.

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

Council is currently preparing Maitland 2021 (a community strategic plan), in line with the new Integrated Planning and Reporting legislation and guidelines. Council has prepared a strategic community plan, Maitland 2021, which highlights what the community of Maitland wants and needs by the year 2021, and how Council can deliver those wants and needs. Maitland 2021 is a strategic community plan focused on developing a long term plan for our community, informed by our community.

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) – 2008 Edition

The Lochinvar URA is one of the identified urban release areas within MUSS 2008, being a Category 1 investigation area. A copy of the relevant section of the MUSS 2008 is included as **Appendix 3**.

The subject land is identified as an urban release area in the MUSS 2008, therefore this planning proposal addresses the broad planning objectives listed under the MUSS relating to investigation areas. These objectives include character, environment, design, and infrastructure.

- Character
- Environment
- Design
- Infrastructure

Character

The rezoning proposal can meet the objective of “character” by enhancing the interface between urban and rural land in this area of the Maitland LGA, thereby contributing to the improvement of this important gateway to Maitland. The proposal has considered the preliminary planning work undertaken to inform the Lochinvar Structure Plan 2007, which investigated issues of character, including built and cultural heritage, opportunities for a town centre, minimising land use conflicts, retention of vegetation, establishing a high quality urban landscape, and enhancing attractive gateways. The proposal builds upon the work undertaken as part of the Lochinvar Structure Plan 2007, and is considered consistent with this objective of the MUSS 2008.

Environment

The MUSS 2008 (p. 58) identifies specific objectives in regards to planning for investigation areas. The following objectives relate to the environment:

- Retain and enhance established flora and fauna corridors;
- Conserve and protect important areas of remnant native bushland and wetlands;
- Ensure that the physical amenity and ecology of waterways are not adversely impacted by new urban development;
- Prevent any further deterioration of water quality and prevent local flooding;
- Minimise soil erosion;
- Encourage design that enhances energy efficiency and the minimisation of waste;
- Mitigate against bushfire;
- Rehabilitate disturbed or degraded areas;
- Utilise environmental assets to create a healthy and safe living environment;
- Enhance Maitland’s gateways with natural landscaping.

The proposal to rezone the site is consistent with these objectives, since:

- o The proposal does not impact upon any established flora and fauna corridors as development will only occur within the cleared areas of the site, with existing corridors and EECs protected through environmental protection zones, where appropriate;

- o The application of the environmental protection zones over some of the existing corridors and EECs within the site will conserve and protect areas of remnant vegetation and intermittent watercourses within the site;
- o Environmental studies have demonstrated that the physical amenity and ecology of the existing watercourses and associated wetland vegetation will not be significantly impacted upon as a result of the rezoning, and as stated above, the proposal will extend environmental protection zones over important areas within the site which will further improve the amenity of the site;
- o The proposal will not contribute significantly to local flooding, while precinct planning controls are to be implemented over the entire site to ensure that water entering the various watercourses within the site is of appropriate quality;
- o As stated above, appropriate precinct planning controls will be implemented in the future which will contain appropriate mechanisms for controlling erosion and sedimentation;
- o The rezoning proposal demonstrates that the majority of the site will be zoned for residential purposes, with the orientation of the site ensuring that the future development can easily be designed to maximise energy efficiency. Any future proposal for development within the site will be subject to Council's DCP/precinct planning provisions at that point in time, including provisions relating to waste minimisation;
- o While the proposal has not considered bushfire impacts and how to mitigate against bushfire risk, this issue is not considered to be a matter that would preclude development within the site, and in any case a bushfire risk assessment can be undertaken during preparations for a future precinct plan for the site;
- o The application of environmental protection zones over significant areas of the site will assist in providing opportunities for disturbed or degraded areas within the site to be rehabilitated;
- o Protection of important vegetation and watercourses within the site through the application of environmental protection zones will contribute to the overall amenity of the site, since these natural assets will continue to enhance the site; and
- o The rezoning of the site will contribute to enhancing Maitland's natural landscape by protecting existing natural features within the site and will enhance this gateway in the Maitland LGA by contributing to the integration of built form and the natural landscape in the locality.

Design

The proposal involves rezoning the subject land for urban purposes, in order to enable future subdivision of the site for residential development. While the design of roads, stormwater detention areas, active and passive recreation areas, and infrastructure servicing will be assessed as part of any future precinct plan, and during assessment of future Development Applications, the site maintains the topography, amenity and general characteristics to accommodate a quality pattern of urban development in the future.

Infrastructure

Roads, infrastructure and services currently exist in the immediate locality and consideration has been given to the extension of these services to accommodate future urban development at the site. While a preliminary water and wastewater servicing report was included with the planning proposal, detailed strategies have not yet been approved by Hunter Water Corporation (HWC) in relation to water and wastewater servicing for the site. Correspondence received from HWC during the recent exhibition period for the Draft LEP states that draft strategies submitted to HWC by the applicant have indicated that the Lochinvar URA can be serviced by HWC's infrastructure and that HWC do not object to the proposal. Other infrastructure agencies were

contacted during the consultation phase. None of the relevant agencies consulted during the exhibition period objected to the proposal or stated that infrastructure servicing would be an impediment to future urban development.

Proposal to Undertake Further Investigations

The Maitland to Minimbah Third Track project was approved by the Minister on 20 December 2010. Impacts from noise, vibration and emissions are proposed to increase along the Main Northern Railway Line as a result of increased operations permitted by this approval. Council proposes to zone land adjoining the rail corridor for residential purposes, pending further detailed investigations regarding noise, vibration and, potentially air quality, as part of future precinct planning. The Minister's determination for the Third Track proposal (included as **Appendix 11**) does not acknowledge the Lochinvar URA as a sensitive receiver despite its status as a Category 1 site under the endorsed MUSS 2008 and the structure planning work undertaken in conjunction with the Department for the adopted Lochinvar Structure Plan 2007. Furthermore, the Minister's determination does not include any specific details of noise/vibration attenuation requirements associated with the Third Track proposal. Without a clear understanding of the proposed methods of noise/vibration attenuation, and the impact that such methods could have on reducing noise/vibration generated from operational movements within the rail corridor, Council is not yet in a position to make an informed decision on how to best control development adjoining the rail corridor. Furthermore, the Lochinvar Structure Plan 2007 highlights that *"Any new development on land within approximately 800m of the rail line and 120m of the NEH will require individual acoustic assessment."* (p. 27). Any requirements for noise and vibration attenuation to be provided along the rail corridor by the proponent of the Third Track project are likely to significantly influence the types of land uses that are appropriate for the southern extent of the Lochinvar URA.

MUSS 2008 – Lochinvar Investigation Area

The MUSS 2008 identifies specific environmental considerations to be addressed as part of any future planning for the Lochinvar URA. These include:

- consistency with the outcomes of the Lochinvar Structure Plan 2007;
- consideration of all access points, route networks (including pedestrian/cycleways) existing and anticipated traffic generation, and the impact of the Hunter Expressway;
- investigation of water quality and quantity in Lochinvar Creek, and consideration of erosion and salinity in the various watercourses within the site;
- ensuring capacity exists for the proper augmentation of essential infrastructure in the locality;
- analysis of localised overland flooding, including consideration of the Lochinvar Floodplain Management Study; and
- investigation into ameliorating noise impacts from the Main Northern Railway Line and the New England Highway.

A copy of the relevant sections of the MUSS 2008 is included as **Appendix 3**.

The environmental studies submitted as part of the rezoning application have substantially addressed the abovementioned issues. Further discussion of these issues is provided in the following sections, particularly sections 9 & 12. It is considered that any outstanding matters could be addressed as part of the preparation of a future area plan for the site.

Lochinvar Structure Plan 2007

The Lochinvar Structure Plan was adopted by Council in October 2007 and subsequently endorsed by the Department of Planning. The Lochinvar Structure Plan aims to consider and address matters within the Lochinvar URA, including structure and operation, transport and access, infrastructure and services including water and sewer servicing, commercial developments, emergency and community services. Furthermore, areas requiring environmental protection/buffers, key sites and possible road networks have been identified in the Structure Plan. **Appendix 6** provides the relevant extracts from the Lochinvar Structure Plan 2007.

Maitland Greening Plan, 2002

The Maitland Greening Plan identifies an “opportunity corridor” for wildlife within the Lochinvar URA (MGP 2002:53). The purpose of this opportunity corridor is to identify land for priority revegetation (to be undertaken on a *voluntary* basis), which would ideally lead to suitable habitat for wildlife to traverse other connecting corridors within the Maitland LGA. However, opportunities for revegetation in the developable portion of the site are limited given that this would be a direct contradiction to the objectives of the LHRs 2006 and the MUSS 2008. The LHRs 2006 identifies the site as a ‘Proposed Urban Area’ (LHRs 2006:12), while the MUSS 2008 identifies the site as a Category 1 investigation area (0-5 year development timeframe). The MUSS 2008 is an endorsed local land use strategy.

It should be noted that the Greening Plan was adopted in 2002 and land use strategies such as the LHRs 2006 and the MUSS did not exist at this point in time. Furthermore, the MUSS 2008 has been revised biennially since this time, however the Greening Plan 2002 has not been revised to accommodate the outcomes of these land use strategies. The proposal involves significant additional environmental protection within the site, by applying environmental protection zones over important vegetation corridors, watercourses and EECs within the site. This will provide opportunities for vegetation and wildlife protection that are considered to be more effective, and of a higher conservation value, than those that were initially proposed under the Greening Plan in 2002.

Given that: (i) the developable portion of the site is cleared, (ii) the rezoning involves retention of important vegetation corridors, watercourses and EECs within the site under environmental protection zones and (iii) the endorsement of the MUSS 2008 signalled the intent of the site to be rezoned in the future for urban purposes, rezoning the majority of the site to urban purposes is considered appropriate in this instance. In any case, while the Greening Plan 2002 identifies land for priority revegetation, this is only on a *voluntary* basis.

Activity Centres & Employment Clusters Strategy 2010

The Activity Centres and Employment Clusters Strategy 2010 (ACECS 2010) identifies that the projected development in the Lochinvar URA is likely to warrant the provision of a town centre, in addition to a neighbourhood centre comprising some of the existing commercial land adjoining the New England Highway (to the north) at Lochinvar. The Lochinvar Structure Plan 2007 map identifies the potential location for a town centre, within the centre of the URA. This portion of the site is *not* to be rezoned as part of this planning proposal. It is likely that an appropriately sized area in the vicinity of this portion of the site will be rezoned to accommodate a town centre in the future, subject to need and uptake of future urban residential allotments which would warrant any such centre.

Land to the north of the existing commercial premises adjoining the New England Highway is proposed to be zoned to commercial purposes, in line with recommendations outlined in the LSP 2007. The intention to rezone this portion of the site for commercial purposes is consistent with the Lochinvar Structure Plan 2007, the ACECS 2010 and the Neighbourhood Planning Principles outlined under the LHRs 2006. A copy of the relevant extracts from the ACECS 2010 is included as **Appendix 7**.

The total area of the land proposed to be zoned 3(a) General Business under the subject draft LEP amendment is approximately 10,078m². This additional commercial floor space is considered to be appropriate for land that is proposed to be zoned B1 Neighbourhood Centre zone under the proposed Maitland LEP 2011. As stated above, the ACECS 2010 identifies that a neighbourhood centre would be warranted in the Lochinvar URA. The additional commercial floor space to be provided by way of the 3(a) General Business zoning is consistent with the scale of other neighbourhood centres within the Maitland LGA.

Airds of Lochinvar

Council resolved on 9 October 2007 to adopt the Lochinvar Structure Plan, with the resolution including the following amendment:

- (b) *the identification of the Airds commercial building as a “potential commercial” site.*

While the existing ‘Airds of Lochinvar’ building is retail/commercial in nature, it is not proposed to rezone the land that the building exists upon for commercial purposes, given that the site is proposed to be zoned for residential purposes in accordance with the Lochinvar Structure Plan 2007. Rezoning the land to residential purposes would be consistent with the proposed zoning for adjoining allotments, which would not preclude small scale commercial uses such as neighbourhood shops. However, Council recently adopted the Activity Centres and Employment Clusters Strategy 2010 (p. 16-17, 25) which identifies appropriate areas within the Lochinvar URA for commercial purposes. Rezoning the land that accommodates the Airds of Lochinvar building to a purpose other than residential would be inconsistent with the ACECS 2010 and the LSP 2007. Furthermore, while the LSP 2007 (p. 24) identifies the existing ‘Airds of Lochinvar’ building as a commercial site given the existing use of the building, it does not propose *expansion* of the site for commercial purposes.

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

There are no existing or draft SEPPs that would prohibit or restrict the proposed rezoning, as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table 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 site has been subject to agricultural activities over time and may accommodate chemical residues from activities such as cattle drenching, and from fertilisers and herbicides. A preliminary geotechnical report was submitted with the rezoning application. The report recommends further site specific detailed investigations to confirm the absence/presence of contamination in specific areas of the site. Without more detailed assessment at this point in time, it cannot be guaranteed that the proposal is consistent with this SEPP. Further detailed investigations will need to

		occur at the precinct planning/DA stages in order to determine the extent of any contamination in these specified locations.
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 nothing in this planning proposal directly impacts upon the aims and provisions of this SEPP, the Maitland to Minimbah Third Track rail project is likely to introduce noise and vibration effects that could significantly impact land within the Lochinvar URA, based on the relevant levels outlined under the SEPP. The EA for the Third Track project identified that noise and vibration generated from the proposed Third Track has the potential to exceed human comfort levels for certain land uses within 40m of the rail corridor, as measured against the SEPP. Given this, the southern area of the site adjoining the rail corridor will require further investigations in association with precinct planning to confirm the actual extent of noise, vibration and emissions that are to be generated from operational movements along the Third Track. The Part 3A determination for the Third Track project (see Appendix 11) states that an Operational Noise and Vibration Review (ONVR) is required within 3 months of the commencement of operations, to clarify the data recorded for the Part 3A application for the project. Where noise or vibration exceeds the data recorded to inform the Part 3A project, there may be requirements for ameliorative measures to be provided to limit noise and vibration on land adjoining the rail corridor. The determination also states that the assessment shall include: <i>"A review of land use planning, any land use changes and the background noise environment within areas adjacent to the rail line at the time of the review."</i>(Condition 2.16, p. 8) This requirement indicates that the rezoning of the Lochinvar URA would trigger review of noise and vibration levels and how they impact on a large

		<i>residential</i> area. The Department will be required to consult internally to determine whether any future ONVR considers the land use change once the Draft LEP is gazetted and the land use change is legally endorsed. Condition 2.15 of the determination states that the ONVR shall: <i>"Identify specific physical and other mitigation measures for controlling noise and vibration at the source and at the receiver (if relevant) including location, type and timing for the erection of permanent noise barriers and/or other noise mitigation measures" (p. 8)</i> Adherence to this condition will ensure that appropriate measures are taken to mitigate the impacts of noise and vibration emitted from the Third Track project. Furthermore, the Lochinvar Structure Plan 2007 highlights that <i>"Any new development on land within approximately 800m of the rail line and 120m of the NEH will require individual acoustic assessment."</i> (p. 27). Any requirements for noise and vibration attenuation to be provided along the rail corridor by the proponent of the Third Track project are likely to significantly influence the types of land uses that are appropriate for the southern extent of the Lochinvar URA.
SEPP (Rural Lands) 2008	This SEPP outlines aims and objectives for rural land use planning, with a focus on limiting fragmentation of rural land and protecting rural land for broad scale agricultural uses.	This SEPP is relevant since the majority of the site is currently zoned for rural purposes under the Maitland LEP 1993. The site is identified under the LHRS 2006 (p. 12-13) as a 'Proposed Urban Area'. Nothing in this plan is inconsistent with the objectives of this SEPP.
SEPP 44 – Koala Habitat	This SEPP aims to conserve and manage areas which provide habitat to koalas, in order to reverse the declining koala population in NSW.	One Koala feed tree species was identified within the site (<i>E. tereticornis</i>). Preliminary flora and fauna information submitted as part of the rezoning proposal indicates that the land is unlikely to support Koalas. No trees were recorded as possessing

		Koala scats and no Koalas were observed in the vegetation during spotlight searches. The flora and fauna report stated that the site does not support vegetation that would meet the definition of Potential Koala Habitat as listed under Schedule 2 of SEPP 44 (i.e. at least 15% of the total number of trees in the upper and lower strata of the tree component).The proposal is consistent with SEPP 44 - Koala Habitat.
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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 rezoning proposal suggests that the proposal is not inconsistent with any s.117 Ministerial Directions, the outcomes of further environmental investigations are required in some instances to confirm this. An assessment of the relevant s.117 Directions that apply to this planning proposal is provided in the table below. Those directions that do not apply to the planning proposal have not been assessed as they are not relevant to the proposal.

Ministerial Direction	Aim of the Direction	Consistency and Implications
EMPLOYMENT and RESOURCES		
1.1 Business and Industrial Zones	To encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	The proposal involves rezoning a portion of the site to commercial purposes. The Lochinvar URA has been identified in Council's Activity Centres and Employment Clusters Strategy 2010 (ACECS 2010) as an area which could accommodate a town centre in the future, while also accommodating existing (and some additional) commercial development along the New England Highway, in line with the LSP 2007. The site is included in the LHRS 2006 (p. 12) as a 'Proposed Urban Area'. The proposal to rezone a portion of the URA for commercial purposes is consistent with the objectives of the LHRS 2006. The proposal is consistent with this direction.
1.2 Rural Zones	To protect the agricultural production value of rural land.	The Lochinvar URA is identified in the LHRS 2006 (p.12-13) as a 'Proposed Urban Area' and a 'Major Release Site' (p. 25), and is also identified as a Category 1 investigation area in the MUSS 2008 (p. 13). The proposal is therefore consistent with this direction.
1.5 Rural Lands	To protect the agricultural production value of rural land, and to facilitate the orderly and economic development of	The site is identified in the LHRS 2006 (p. 12-13) as a 'Proposed Urban Area' and a 'Major Release Site' (p. 25), and is also identified as an

Ministerial Direction	Aim of the Direction	Consistency and Implications
	rural lands for rural and related purposes.	investigation area in the MUSS 2008 (p. 13). The proposal is therefore consistent with this direction.
ENVIRONMENT and HERITAGE		
2.1 Environment Protection Zones	To protect and conserve environmentally sensitive areas.	The proposal to rezone the land will increase the environmental protection of vegetation and watercourses within the site. The proposal involves applying environmental protection zoning to important riparian corridors, EECs and watercourses outside the proposed developable area of the site. Some of these areas are not currently zoned for environmental protection purposes, therefore the proposal will result in improved environmental outcomes within the site. 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 subject land contains known items of heritage significance. Investigations relating to Aboriginal Heritage have been completed for the site. The previous planning proposal indicated that the Department would be provided with a copy of the study undertaken for the site, since it had not been completed at that point in time. A copy of the Aboriginal Heritage study is provided under separate cover. A European heritage assessment will be required to be undertaken as part of precinct planning for the site. The majority of the developable area of the site does not retain known items of heritage significance, therefore it is considered acceptable that investigations into European heritage occur post-rezoning stage, prior to implementation of any future precinct plans for the URA. The heritage provisions contained under the Maitland LEP 1993 will not be amended as part of the subject planning proposal. The provisions will ensure the protection of any heritage items that exist within the Lochinvar URA. The proposal is therefore consistent with this direction.
HOUSING, INFRASTRUCTURE and URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing, minimise the impact of residential development on the environment and resource lands and make efficient use of infrastructure and	The proposed rezoning will result in a change of land use to enable future urban development within the site. The land is identified as a 'Proposed Urban Area' (p. 12) and a 'Major Release Site' (p. 25) in the LHRS 2006, and as a

Ministerial Direction	Aim of the Direction	Consistency and Implications
	services.	Category 1 investigation area in the MUSS 2008 (p. 13). 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.	The Lochinvar URA is identified as a 'Proposed Urban Area' in the LHRs 2006 (p. 12), and as a Category 1 investigation area in the MUSS 2008 (p. 13). 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 the majority of the land proposed to be developed in the future within the URA is for residential purposes.
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, including the New England Highway and Lochinvar Railway Station. The land is identified as a 'Proposed Urban Area' in the LHRs 2006 (p. 12), and as a Category 1 investigation area in the MUSS 2008 (p. 13) - which has been endorsed by DoP. 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.	The land is not known to be affected by Acid Sulphate Soils (ASS), however information and mapping relating to ASS in the area is limited. While the environmental studies submitted with the proposal did not identify whether ASS was investigated within the site, the studies did indicate that soils within the URA contained excessive surface movement not generally identified in the Lochinvar region. Further consideration of ASS should be undertaken during future geotechnical investigations associated with the abovementioned issue, as part of the preparation of precinct plans for the Lochinvar URA. In any case, the proposed Maitland LEP 2011 identifies that the Lochinvar URA may contain ASS, by mapping the site as Class 5 ASS. The proposal is therefore 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	The majority of the URA is not affected by inundation during the 1:100 year flood event. A small area in the northern extent of the site is

Ministerial Direction	Aim of the Direction	Consistency and Implications
	consistent with NSW Flood Prone land policy.	affected by flooding extending from the Hunter River, while localised flooding occurs within the Freeman Drive precinct, an established large lot residential area within the site. These areas of the site will be incapable of supporting additional residential development due to this constraint. The portion of the site proposed to be zoned for residential purposes is located above the 1:100 year flood level. In any case, the area of the site constrained by flooding represents only a very limited portion of the total site area, and is proposed to be zoned 7(c) Environmental Protection General given it adjoins riparian corridor comprising the same zone. The proposal is therefore consistent with this direction as the matter is of minor significance in this instance.
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.	Land within the south-eastern and south-western portions of the URA are mapped as bushfire prone. The bushfire prone land map for the site is attached to this report as Appendix 8. The site is identified in the LHRS 2006 as a 'Proposed Urban Area' (p. 12) and the amount of bushfire prone land within the site is limited. The NSW Rural Fire Service was consulted during the exhibition period for the draft LEP. The proposal is consistent with this direction since the RFS did not object to the proposal in their submission. Furthermore, the majority of bushfire prone land has been captured under the proposed 7(c) Environmental Protection General zone, limiting urban development within this area of the site in any case.
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 Lochinvar URA is identified in the LHRS 2006 (p. 12) as a 'Proposed Urban Area' and a 'Major Release Site' (p. 25) potentially capable of accommodating up to 5,000 dwellings. 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		
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning	This direction applies since the MLEP 1993 permits an additional permitted use within part of the site. The use of the land for

Ministerial Direction	Aim of the Direction	Consistency and Implications
	controls.	tourism/residential purposes has previously been approved by Council, under the auspices of Clause 52B of the MLEP 1993 – <i>Certain Development at St Helena Close, Lochinvar</i>. The provisions of Clause 52B under the Maitland LEP 1993 will not be amended as a result of this planning proposal proceeding. The proposal is consistent with this direction. In any case, the rezoning will allow the approved land use (tourism/residential purposes) to be carried out in the proposed zone for the land.
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

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 subject site retains Endangered Ecological Communities (EECs), comprising Central Hunter Riparian Forest and Hunter Lowlands Redgum Forest. The location of most of these EECs within the site renders them susceptible to urban development, which could have adverse impacts. Despite the site being identified in the LHRS 2006 as a 'Proposed Urban Area' (LHRS 2006:12-13) and a 'Major Release Site' (p. 25), and being listed in the MUSS 2008 (p. 13) as a Category 1 investigation area, appropriate assessment was required to be undertaken to determine the likely impacts on threatened species and potential critical habitat. The preliminary flora and fauna report submitted with the rezoning proposal identified a total of five threatened fauna species within the site. The report stated that a desktop search of government databases identified an additional 18 threatened species, and four migratory/marine species which may exist in the area. An assessment of fauna habitat significance identified remnant vegetation in the southern area of the site, along with certain wetlands, as offering the highest habitat value for local fauna. The report states that areas of the site earmarked for environmental protection in the Lochinvar Structure Plan 2007 should be the focus of any restorative actions undertaken within the site.

One Koala feed tree species was identified within the site (*E. tereticornis*). Preliminary flora and fauna information submitted as part of the rezoning proposal indicates that the land is unlikely to support Koalas. No trees were recorded as possessing Koala scats and no Koalas were observed in the vegetation during spotlight searches. The flora and fauna report stated that the site does not support vegetation that would meet the definition of Potential Koala Habitat as listed under Schedule 2 of SEPP 44 (i.e. at least 15% of the total number of trees in the upper and lower strata of the tree component). Given the cleared nature of the site, the lack of Koala habitat as identified in the submitted flora and fauna report, and Council's intention to apply environmental protection zones to remaining vegetation within the site (consistent with the LSP 2007),

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 is not considered necessary in this instance.

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

The proposal will have environmental impacts at a number of scales. The following subheadings summarise the main issues likely to require attention as part of the rezoning.

Flora & Fauna

The LSP 2007 (p. 8) identifies only limited biodiversity issues within the Lochinvar URA. The subject site retains Endangered Ecological Communities (EECs), comprising Central Hunter Riparian Forest and Hunter Lowlands Redgum Forest. The Maitland Greening Plan identifies an “opportunity corridor” for wildlife within the site (MGP 2002:53). The purpose of this opportunity corridor is to identify land for priority revegetation (to be undertaken on a voluntary basis), which would ideally lead to suitable habitat for wildlife to traverse other connecting corridors within the Maitland LGA. Significant planning undertaken in the LSP 2007 provides consideration for alternative vegetation/wildlife corridors within the site, which will be zoned for environmental protection purposes as part of this proposal. It is proposed that these corridors would extend beyond the boundaries of the site and link to existing riparian corridors and vegetation communities within the locality.

The preliminary flora and fauna report submitted with the rezoning proposal identified a total of five threatened fauna species within the site. The report stated that a desktop search of government databases identified an additional 18 threatened species, and four migratory/marine species which may exist in the area. An assessment of fauna habitat significance identified remnant vegetation in the southern area of the site, along with certain wetlands, as offering the highest habitat value for local fauna. The report states that areas of the site earmarked for environmental protection in the Lochinvar Structure Plan 2007 should be the focus of any restorative actions undertaken within the site. One Koala feed tree species was identified within the site (*E. tereticornis*). Preliminary flora and fauna information submitted as part of the rezoning proposal indicates that the land is unlikely to support Koalas. No trees were recorded as possessing Koala scats and no Koalas were observed in the vegetation during spotlight searches. The flora and fauna report stated that the site does not support vegetation that would meet the definition of Potential Koala Habitat as listed under Schedule 2 of SEPP 44 (i.e. at least 15% of the total number of trees in the upper and lower strata of the tree component).

Council is satisfied that flora and fauna issues can be addressed through the implementation of environmental protection zones over important riparian corridors, watercourses and remnant vegetation communities within the site. The cleared nature of the site means that flora and fauna issues tend to be limited to these areas. The proposal is unlikely to have adverse impacts on the flora or fauna within the site.

Following exhibition, some variations have been made to the Draft LEP amendment, including:

- Rectifying an anomaly in the application of the 7(c) Environmental Protection General zone immediately north of Cow Hill Road (upon Lot 311 DP1135580) by zoning the small cleared area of this portion of land 2(a) Residential;
- Applying the 7(c) Environmental Protection General zone to identified Endangered Ecological Communities (EECs) north and south of Cow Hill Road, specifically upon Lots 1308 and 1309 DP1141533 and Lot 311 DP1135580; and

- Applying the 7(c) Environmental Protection General zone to a portion of Lot 201 DP1111493 (St Helena), for the purpose of protecting identified Endangered Ecological Communities (EECs) and riparian land within 40m of two nominated watercourses. This approach is consistent with the current 7(b) Environmental Protection Buffer zoning for this portion of the site, and the provisions of the Citywide DCP Chapter – St Helena Village Lochinvar.

These changes will result in improved environmental outcomes for the land contained within the Lochinvar URA.

Bushfire

The LSP 2007 (p. 9) identifies bushfire hazard as a consideration for planning within the Lochinvar URA. The land is classified as bushfire prone on Council's property information system. A bushfire risk assessment was not submitted with the rezoning proposal. A detailed report will be required to address bushfire risk, in accordance with Planning for Bushfire Protection 2006 (PfBP 2006). The report will need to provide an indicative lot layout/precinct layout and identify the bushfire hazard, in demonstrating how the proposal complies with PfBP 2006. Council considers that this report should be provided as part of precinct planning or DA assessment, given the size of the site and the limited extent of bushfire prone vegetation within the total site area.

Noise & Vibration

The MUSS 2008 (p. 79) identifies that excessive noise from the New England Highway (NEH) and the Main Northern Railway Line could have significant impacts on future development within the site, therefore future land uses should reflect the noise constraints by permitting appropriate development within the site, such as permitting less sensitive land uses closer to the railway line.

The southern area of the site adjoining the rail corridor will require further investigations in association with precinct planning to confirm the actual extent of noise, vibration and emissions that are to be generated from operational movements along the Main Northern Rail Line, given the recently approved Third Rail Track project. A copy of the submission prepared by Maitland City Council regarding the Third Track project is attached as **Appendix 10**. The submission raises concerns about the potential impacts on urban release areas like Lochinvar, and outlines the detailed planning work undertaken to date for such urban release areas.

The Part 3A determination for the Third Track project (see **Appendix 11**) states that an Operational Noise and Vibration Review (ONVR) is required within 3 months of the commencement of operations, to clarify the data recorded for the Part 3A application for the project. Where noise or vibration exceeds the data recorded to inform the Part 3A project, there may be requirements for ameliorative measures to be provided to limit noise and vibration on land adjoining the rail corridor. The determination also states that the assessment shall include:

"A review of land use planning, any land use changes and the background noise environment within areas adjacent to the rail line at the time of the review."(Condition 2.16, p. 8)

This requirement indicates that the rezoning of the Lochinvar URA would trigger review of noise and vibration levels and how they impact on a large *residential* release area which is identified under the LHRS 2006. The Department will be required to consult internally to determine whether any future ONVR does indeed consider the land use change once the Draft LEP is gazetted and the land use change is legally endorsed.

Condition 2.15 of the determination states that the ONVR shall:

"Identify specific physical and other mitigation measures for controlling noise and vibration at the source and at the receiver (if relevant) including location, type and timing for the erection of permanent noise barriers and/or other noise mitigation measures" (p. 8)

Adherence to this condition will ensure that appropriate measures are taken to mitigate the impacts of noise and vibration emitted from the Third Track project.

Furthermore, the Lochinvar Structure Plan 2007 highlights that *"Any new development on land within approximately 800m of the rail line and 120m of the NEH will require individual acoustic assessment."* (p. 27). Any requirements for noise and vibration attenuation to be provided along the rail corridor by the proponent of the Third Track project are likely to significantly influence the types of land uses that are appropriate for the southern extent of the Lochinvar URA.

Traffic

The MUSS 2008 (p. 78) discusses the importance of access to the site from the New England Highway (NEH), stating that all access points will require future investigation. The MUSS states that a traffic study will be required for the site (p. 78), while a transport strategy is also discussed which would serve to identify networks for vehicular movements, pedestrian routes, cycleways and public transport.

The Lochinvar URA is located in a strategically significant area in the context of road networks and the proposed Southern bypass route within the Maitland LGA. Council has previously exhibited the *Maitland Integrated Land Use and Transport Study 2010* for public comment, which includes the proposed route of the Southern Bypass (see **Appendix 9**). Traffic and access investigations pertaining to the rezoning of the site need to incorporate consideration of the intended Southern bypass route and what impact rezoning the site is likely to have on the Southern bypass and integrated road network. Consideration has been given to the proposed Hunter Expressway and its alignment in the context of the location of the Lochinvar URA.

The MUSS 2008 (p. 78) identifies that further investigation is required regarding the suitability of, and potential upgrade to, the level crossing at the southern end of Station Lane. In association with infrastructure upgrades to support the proposed Maitland to Minimbah Third Track project, ARTC have proposed a new rail overbridge to the west of the existing level crossing and Lochinvar Railway Station. This project will result in an improved safety outcome by eliminating the need for vehicles utilising Station Lane to cross the Main Northern Railway Line, and also includes upgrades to the Lochinvar Railway Station. No further investigation of this matter will be required unless ARTC's commitments change in relation to upgrading this rail support infrastructure.

Given the substantial investigations undertaken by Council in preparing the LSP 2007, there was no formal requirement for the proponent to undertake investigations into traffic and access as part of the rezoning process. Council is satisfied that enough information exists that would allow the rezoning of the site on the grounds of traffic and access, with further investigations to occur in conjunction with precinct planning for the site. Furthermore, the RTA have requested that a traffic impact assessment be prepared at the precinct planning stage for the site. The proposed Southern Bypass route is expected to be determined by the time that future traffic investigations are likely to occur for the site, which will allow a more appropriate assessment of traffic and access in the locality. In any case, Council's traffic engineer has identified that a detailed traffic study will be required as part of a Section 94 plan for the site, which will have the purpose of identifying suitable road upgrades and traffic management facilities.

The LSP 2007 (p. 15-16) identifies that local roads within the site will require widening and upgrading to accommodate future urban development within the site, along with upgrades to public transport infrastructure like Lochinvar Railway Station and the Station Lane level crossing. As mentioned above, ARTC is proposing to upgrade Lochinvar Railway Station in association with the construction of a new overbridge crossing the Main Northern Railway Line. Investigation into road widening and improving the

standards of roads within the site can occur during the precinct planning stages for the URA.

Flooding & Stormwater

The MUSS 2008 (p. 79) identifies that analysis of local overland flooding is required in the Lochinvar URA, given the presence of confluencing tributaries that terminate at the southern extent of Lochinvar Creek causing intermittent flooding in the locality. The LSP 2007 identifies a limited area of flood prone land in the northern portion of the site, in addition to land in the existing residential area adjacent to Lochinvar Creek in Freeman Drive and Hunter Close which is affected by localised flooding in peak storm events. Furthermore, the LSP 2007 states that water quality and quantity in Lochinvar Creek is a key consideration for investigations associated with the site.

A small area in the northern portion of the site is known to be inundated during the 1:100 year flood event, resulting from flood effects of the nearby Lochinvar Creek and overland flows generated from the Hunter River. This area of the site is to be zoned for environmental protection purposes, given its proximity to riparian corridors and watercourses. No urban development is proposed in this area of the site. Land in the existing residential area adjacent to Lochinvar Creek in Freeman Drive and Hunter Close, which is affected by localised flooding in peak storm events, will not be permitted to accommodate additional residential development, given this constraint.

No further assessment of flooding and stormwater is considered necessary at the rezoning stage for this proposal. The work undertaken to inform the LSP 2007 has demonstrated that the site is suitable for urban development on the grounds of flooding and stormwater. The topography of the land, combined with the presence of on-line dams and watercourses in the Lochinvar URA means that the site is conducive to establishing appropriate methods of stormwater detention and implementing quality control measures. Further assessment of stormwater detention and quality control methods will be undertaken during the preparation of precinct plans for the site.

Geotechnical

The MUSS 2008 (p. 79) states that erosion and salinity are known issues along the watercourses within the URA, and that these issues need to be considered for future urban development. The LSP 2007 (p. 9) also identifies that the site is susceptible to salinity, stating that protection and improvement of riparian corridors can help minimise soil erosion and limit the expansion of salinity within the site. Potential limitations regarding suitability of soils for road design and formation are identified in the LSP 2007 (p. 9).

The site has been subject to agricultural activities over time and may accommodate chemical residues from activities such as cattle drenching, and from fertilisers and herbicides. A preliminary geotechnical report was submitted with the rezoning application. The report recommends further site specific detailed investigations to confirm the absence/presence of contamination in specific areas of the site. Further detailed investigations will need to occur to determine the extent of any contamination in these specified locations, which can be undertaken as part of preparing precinct plans for the site. It is likely that a Phase 2 contamination assessment will be required for some areas of the site, which can be submitted at the DA stage for future development, but only after identifying the specific areas in the future precinct plans that require further detailed investigation.

The land is not known to be affected by Acid Sulphate Soils (ASS), however, DECCW's mapping of ASS has not been completed for this part of the Maitland LGA. While the environmental studies submitted with the proposal did not identify whether ASS was investigated within the site, the studies did indicate that soils within the URA contained excessive surface movement not generally identified in the Lochinvar region. Further consideration of ASS should be undertaken during future geotechnical investigations associated with contamination, as part of the preparation of precinct plans for the Lochinvar URA.

Water & Wastewater Servicing

The MUSS 2008 states that HWC have previously advised that reticulated sewer is available to service approximately 2500 allotments as part of the initial construction phase of new infrastructure within the Lochinvar Urban Release Area. The LSP 2007 (p. 19-20) highlights that HWC need to be consulted to ensure that future urban development can be adequately serviced, and to determine appropriate staging of land within the Lochinvar URA in respect of infrastructure expansion and capacities.

While a preliminary water and wastewater servicing report was included with the planning proposal, detailed strategies have not yet been approved by Hunter Water Corporation (HWC) in relation to water and wastewater servicing for the site. Correspondence received from HWC during the exhibition period for the Draft LEP states that draft servicing strategies assessed by HWC have indicated that the Lochinvar URA can be serviced by HWC's infrastructure and that HWC do not object to the proposal.

Visual Impact Assessment

The MUSS 2008 (p. 77-78) identifies visual impact as an important issue for the Lochinvar URA, which is characterised by culturally significant buildings set against a rural setting that combine to enhance the approaches to the township. The LSP 2007 (p.17-19) summarises substantial investigations that were undertaken to inform the LSP 2007 relating to view corridors, town setting and identity, special features and local icons. Council has considered the visually sensitive locations within the site in allocating particular zones to the Lochinvar URA. Further detailed consideration will be given to visual impact during preparation of precinct plans for the site in the future.

Air Quality

The EA for the Maitland to Minimbah Third Track explained that air quality receptors are identified as areas within 500m of the rail corridor, with a focus maintained on those that exist within 100m of the rail corridor. The southern extent of the Lochinvar URA is therefore a key sensitive receptor to be considered as part of this project. Given the potential for increased pollution within the URA as a result of rail operations associated with the Third Track project, an air quality assessment is likely to be required for land within the Lochinvar URA.

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

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

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

- Provision of urban land to meet the objectives of the LHRS 2006 in relation to dwelling capacity projections, and thereby accommodating the growing local and regional population;
- Identification of important EECs and riparian corridors to be protected through appropriate environmental protection zoning;
- Opportunities to those landowners whose land has exhausted its agricultural potential, thereby allowing a higher order use of their individual sites and a return on their long term investment;
- Improved vehicular and non-vehicular linkages within Lochinvar, as well as the potential for improved public transport outcomes and linkages between Lochinvar and the Maitland CBD; and
- The upgrade and extension of infrastructure and services for residents of Lochinvar and surrounding localities, including the potential to improve the existing road network servicing the locality.

Aboriginal Archaeology

The LSP 2007 (p. 21) identifies three (3) known Aboriginal archaeology sites within the Lochinvar URA. Besides the two (2) isolated finds and one (1) artefact scatter within the site, little is known about the immediate locality. The LSP 2007 (p. 21) states that further archaeological surveys would be required prior to any additional investigations regarding development of the site, and that survey work would need to be undertaken in consultation with the Mindaribba Local Aboriginal Land Council and the Lower Wonnarua Tribal Council Incorporated.

A preliminary Aboriginal archaeology assessment has been progressed for the rezoning proposal. The proponent has indicated that comments have been sought from Local Aboriginal Land Council representatives (Mindaribba LALC and Lower Wonnarua Tribal Council Incorporated) regarding the proposal. The URA required a complete detailed archaeological assessment to accurately determine whether the site contains cultural artefacts or sacred areas. Given the presence of drainage channels in the URA, as well as the proximity to the Hunter River, there is a likelihood that Aboriginal artefacts/significant areas may exist within the site. The assessment is to be undertaken in accordance with DECCW's requirements, including the requirements for consultation with Local Aboriginal Land Council's, and is to include mapping to identify any artefacts/sites located within the study area.

DECCW provided a submission during the exhibition period which included recommendations regarding Aboriginal cultural heritage assessment. DECCW requested that all land within the Lochinvar URA be surveyed for Aboriginal heritage, rather than only the five areas that were sampled as part of the Aboriginal archaeological assessment. Council deems that this approach would be unwarranted and likely impossible since all landowners within the Lochinvar URA would be required to give access to consultants undertaking fieldwork. Given that some landowners have not permitted access to their properties for fieldwork, the request by DECCW cannot be met. Furthermore, Council understands that the consultant is still awaiting responses from Aboriginal community groups in order to finalise the Aboriginal heritage report. Council intends on implementing appropriate provisions in precinct plans so that the assessment of subdivision applications ensures that Aboriginal heritage is protected. This has been a successful way of managing Aboriginal heritage issues in other URAs within the Maitland LGA as part of development assessment.

European Heritage

The LSP 2007 (p. 21) lists the current heritage items known to exist within the Lochinvar URA, and discusses the importance of retaining existing local iconic buildings in order to maintain the attractive entry points to the township of Lochinvar (LSP 2007 p. 31). A European heritage study was not undertaken as part of the rezoning proposal. A detailed European heritage study will need to be completed as part of precinct planning for the site, given the presence of known items of heritage significance located within the URA. The report shall take into consideration issues such as the protection of views to and from these heritage items, entry points to the township and buffers between heritage items and future urban development, and should include heritage curtilage mapping for those known items within the URA, as well as the immediate locality. The study should also make recommendations for the recognition/protection of any items that may be discovered during the study.

Section D – STATE and COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

The LHRS 2006 discusses the need for local Councils and the Department of Planning to undertake detailed planning to "...Coordinate the planning, servicing and development of new release areas." (LHRS 2006 p. 25). The provision of public infrastructure is implicit with the development of urban release areas,

particularly major release sites like Lochinvar, where staging of infrastructure and services dictates the structure and long term development of such sites.

Council consulted all relevant public infrastructure authorities during the consultation period for this planning proposal. These public authorities included Energy Australia, Telstra, Hunter Water Corporation and the RTA. Further details regarding consultation with public infrastructure authorities are provided in section 12 of this planning proposal.

As explained in section 9 of this planning proposal, prior to exhibition of the proposal HWC provided a letter stating that all necessary reticulated water and sewer infrastructure can be provided to the Lochinvar URA (see **Appendix 5**). The documentation identifies that the draft strategies have identified that the site can be serviced, and a staged program of works has been identified. The submission received from HWC during the exhibition period is consistent with this information, with HWC stating that infrastructure can be extended to service the site and that there are no objections to the proposal.

State Interests

Maitland to Minimbah Third Track Project

As outlined already in this planning proposal, the existing Main Northern Railway Line rail corridor adjoining the site to the south is proposed to be expanded following the Part 3A approval of the Maitland to Minimbah Third Track project. This project will impact significantly the Lochinvar URA. Council forwarded a submission to the Department during the exhibition period for the project, which, among other issues, outlined the potential implications of the Third Track project on the Lochinvar URA. A copy of the submission is included under **Appendix 10** of this report.

Further detailed assessment is required in relation to some of the matters raised in the submission, in conjunction with future precinct planning for the Lochinvar URA. Particular consideration will need to be given to noise and vibration attenuation methods. Council was satisfied that areas likely to be affected by noise and vibration could be included in the planning proposal, given developer requirements under the Part 3A approval issued to ARTC, and future precinct planning both allowing for appropriate management of these issues.

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

Following the gateway determination being issued by the Department, Council consulted all public authorities identified in the Gateway determination. Responses were received by a number of agencies, however many did not respond. The comments received from the agencies that did respond to Council's notification letter are listed in the summary of submissions under **Appendix 12**.

PART 4: COMMUNITY CONSULTATION

The Gateway determination stipulated that the planning proposal was to be exhibited for a minimum of 28 days. Public exhibition of the planning proposal occurred between 27th October and 26th November 2010.

In accordance with Council's adopted *Community Engagement Strategy (March 2009)*, consultation on the proposed rezoning had the aim of informing and receiving feedback from interested stakeholders. To engage the local community the following was undertaken:

- A public notice was published in the local newspaper;

- Exhibition material and relevant consultation documents were made available at the Rutherford and Central Maitland libraries, and Council's Administration Building;
- Consultation documents were made available on Council's website; and
- Letters, advising of the proposed rezoning and how to submit comments, were sent to adjoining landowners and other stakeholders that Council deemed relevant to this rezoning proposal.

At the close of the consultation process, Council officers considered all submissions received and presented a report to Council for their endorsement of the proposed rezoning before asking the Department to proceed with the finalisation of the amendment.

Public Submissions

The public submissions received during the exhibition period were responded to in the Council report dated 8 March 2011. A copy of that report and the minutes are included under **Appendix 4**.

Variations to Planning Proposal

Some minor variations are proposed to be made to the subject planning proposal as a result of the submissions received. Following review of submissions received during the exhibition period, Council has amended the planning proposal by:

- Rectifying an anomaly in the south-eastern portion of the site (specifically Lot 311 DP1135580) so that the zoning boundary aligns with the cadastral boundary;
- Rectifying an anomaly along the southern boundary of the site, to update cadastral information so that the zoning boundary aligns with the cadastre after the recent acquisition of land by ARTC for the Maitland to Minimbah Third Track project and associated rail overbridge;
- Rectifying an anomaly in the application of the 7(c) Environmental Protection General zone immediately north of Cow Hill Road (upon Lot 311 DP1135580) by zoning the small cleared area of this portion of land 2(a) Residential;
- Applying the 7(c) Environmental Protection General zone to identified Endangered Ecological Communities (EECs) north and south of Cow Hill Road, specifically upon Lots 1308 and 1309 DP1141533 and Lot 311 DP1135580; and
- Applying the 7(c) Environmental Protection General zone to a portion of Lot 201 DP1111493 (St Helena), for the purpose of protecting identified Endangered Ecological Communities (EECs) and riparian land within 40m of two nominated watercourses. This approach is consistent with the current 7(b) Environmental Protection Buffer zoning for this portion of the site, and the provisions of the Citywide DCP Chapter – St Helena Village Lochinvar.

The Council report and minutes from 8 March 2011 detailed these changes. The Council report and minutes are included under **Appendix 4**. A map is included under **Appendix 13** which illustrates the changes between the exhibited zoning map and the post-exhibition zoning map.