

PLANNING PROPOSAL

Amendment to the Maitland LEP

Lochinvar Investigation Area

**Version 1.0
14.07.10**



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Version

Version 1.0 – s.55 Report to Council

INTRODUCTION

In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, this planning proposal has been prepared to rezone land within the Lochinvar Investigation Area for a variety of purposes, including urban, commercial, environmental, public and recreational purposes. A location map showing the Lochinvar Investigation Area 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

The objectives of the proposed amendment will be achieved through an alteration to the zoning map, lot size map, floor space ratio map, and height of building map. The proposed maps resulting from the rezoning of the site are included as **Appendix 2**.

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

- (1) inserting in appropriate order in the definition of **“Land Zoning Map”** in clause 1.4 the following words:

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

- (2) inserting in appropriate order in the definition of **“Lot Size Map”** in clause 1.4 the following words:

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

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 Investigation Area 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 Investigation Area (FIA) 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 Investigation Area 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 Investigation Area, 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 investigation area, 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 Investigation Area 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 Investigation Area 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 investigation area 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 Investigation Area 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:

- The rezoning proposes to accommodate a range of land uses for residential, commercial, recreational and public purposes.
- 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.
- The proposal involves rezoning an area of the site to commercial purposes, which is likely to generate employment opportunities in the future.
- 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.
- Given that the LHRS 2006 (p.25) has identified that the Lochinvar Investigation Area 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 investigation, particularly those relating to noise and vibration, are required in the southern extent of the site to determine whether higher density of built form is appropriate in close proximity to the rail corridor.
- 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.
- 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:

- The proposal will assist in meeting Maitland City Council's dwelling capacity projections of 26,500 dwellings by 2031.
- 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.
- 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.

- 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 a draft community strategic plan in line with the new Integrated Planning and Reporting legislation and guidelines. 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 Investigation Area 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:

- 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;
- 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;
- 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;
- The proposal will not contribute significantly to local flooding, while DCP/Area Plan controls are to be implemented over the entire site to ensure that water entering the various watercourses within the site is of appropriate quality;
- As stated above, appropriate DCP/Area Plan controls will be implemented in the future which will contain appropriate mechanisms for controlling erosion and sedimentation;
- 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/Area Plan provisions at that point in time, including provisions relating to waste minimisation;
- 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 DCP/Area Plan for the site;
- 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;
- 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
- 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 DCP/Area 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 (see **Appendix 5**) states that draft strategies assessed by HWC have indicated that the Lochinvar Investigation Area can be serviced by HWC's infrastructure and HWC do not object to the proposal. Other infrastructure agencies will be contacted during consultation phase, to ensure that infrastructure servicing is not an impediment to future urban development.

Proposal to Undertake Further Investigations

If the Maitland to Minimbah Third Track project is approved, impacts from noise, vibration and emissions are proposed to increase. Council proposes to retain land within 500m of the rail corridor for rural purposes, pending further detailed investigations regarding noise, vibration and, potentially, air quality. DECCW's publication *Assessing Vibration: A Technical Guide 2006* (p. 12) identifies that "...Some studies have shown that annoyance from railway vibrations is inversely proportional to distance from railway tracks, with a rapid decrease in vibration disturbance as the distance increases from 25 to 150 metres and a slower rate of reduction over 200 metres, until no vibration disturbance is detected at 500 metres.". Given the potential for vibration, noise and emissions from rail movements to impact land within 500m of the rail corridor, land potentially affected by these impacts has been identified as warranting further investigation. Furthermore, the EA recently exhibited for the Third Track project does not include details of noise/vibration attenuation methods. 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 the appropriate zoning for this area of the site. While the proposal includes the rezoning of all land within the Lochinvar Investigation Area as identified in the MUSS 2008, the land identified as "Area of Affection – Further Investigation Required" on the proposed zoning map (see **Appendix 2**) will require additional detailed investigations relating to noise, vibration and air quality to determine the extent of impacts from the Maitland to Minimbah Third Track project.

MUSS 2008 – Lochinvar Investigation Area

The MUSS 2008 identifies specific environmental considerations to be addressed as part of any future planning for the Lochinvar Investigation Area. 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 DCP/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 Investigation Area, 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 Investigation Area (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 identifies the site as a 'Proposed Urban Area' (LHRS 2006:12), while the MUSS 2008 identifies the site 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 Investigation Area 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 investigation area. 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**.

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 Investigation Area 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 to determine the extent of any contamination in these specified locations, which can be undertaken at DCP/DA stages.
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 sterilise land within the Lochinvar Investigation Area, based on the relevant levels outlined under the SEPP. The EA for the Third Track project identifies 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, within 500m of the rail corridor, will remain zoned for rural purposes until further investigations confirm the actual extent of noise, vibration and emissions that are to be generated from operational movements along the Third Track. DECCW's publication <i>Assessing Vibration: A Technical Guide 2006</i> identifies that "...some studies have shown that annoyance from railway vibrations is inversely proportional to distance from railway tracks, with a rapid decrease in vibration disturbance as the distance increases from 25 to 150 metres and a slower rate of reduction over 200 metres, until no vibration disturbance is detected at 500 metres." Give the potential for vibration, noise and emissions from rail movements to impact land within 500m of the rail corridor, land potentially affected by these impacts has been identified as warranting further investigation as part of the rezoning.
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	This SEPP is relevant since the majority of the site is currently zoned

	protecting rural land for broad scale agricultural uses.	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.

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 relevant s.117 Directions against the planning proposal is provided in the table below.

Ministerial Direction	Aim of the Direction	Consistency and Implications
EMPLOYMENT and RESOURCES		
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 Investigation Area 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 commercial development located along the New England Highway. The site is included in the LHRs 2006 (p. 12) as a 'Proposed Urban Area'. The proposal to rezone a portion of the investigation area for

Ministerial Direction	Aim of the Direction	Consistency and Implications
		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 Investigation Area 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 rural lands for rural and related purposes.	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 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. The applicant will be required to provide appropriate Aboriginal and European heritage studies to demonstrate that development of the site will not result in impacts upon existing heritage items. The proponent is currently undertaking investigations relating to Aboriginal Heritage. The final study will be provided to the Department of Planning upon completion. A European heritage assessment will be required to be undertaken as part of preparations for a DCP/Area Plan 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 DCP or Area

Ministerial Direction	Aim of the Direction	Consistency and Implications
		Plan for the investigation area. Until Aboriginal Heritage and European Heritage studies are received, it cannot be guaranteed that the proposal is 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 services.	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 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 Investigation Area 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 investigation area 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 investigation area contained excessive surface movement not generally identified in the Lochinvar region. Further consideration of ASS should be undertaken during future geotechnical

Ministerial Direction	Aim of the Direction	Consistency and Implications
		investigations associated with the abovementioned issue, as part of the preparation of a DCP/ Area Plan for the Lochinvar Investigation Area. Until further assessment of ASS occurs, it cannot be guaranteed that the proposal is consistent with this direction.
4.3 Flood Prone Land	Directions aims to reduce the risk of flood and to ensure that the development of flood prone land is consistent with NSW Flood Prone land policy.	The majority of the investigation area is not affected by inundation during the 1:100 year flood event. A small area in the northern extent of the site is 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. 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 investigation area are mapped as bushfire prone. The bushfire prone land map for the site is attached to this report as Appendix 8. The NSW Rural Fire Service has not yet been consulted as part of the rezoning process. However, 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. While bushfire is not considered to preclude urban development within the site, the proposal cannot be considered to be consistent with this direction until the RFS provide written advice stating that they do not object to the proposal.
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 Investigation Area 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,

Ministerial Direction	Aim of the Direction	Consistency and Implications
		policies, outcomes or actions. The proposal is therefore consistent with this direction.
LOCAL PLAN MAKING		
6.2 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	This direction applies since the MLEP 1993 permits an additional permitted use within part of the site. The use of the land for 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 proposal is consistent with this direction since the rezoning will allow the approved land use (tourism/residential purposes) to be carried out in the zone that the land is situated on.
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 '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 Investigation Area. 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.

Bushfire

The LSP 2007 (p. 9) identifies bushfire hazard as a consideration for planning within the Lochinvar Investigation Area. 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 could be provided during more detailed design stages, 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 LSP 2007 (p. 16-17) discusses the issue of transport noise, which predominantly affects the northern and southern extents of the Lochinvar Investigation Area. Acoustic modelling was undertaken as part of preparing the LSP 2007, with the impacts of road and rail noise modelled up to the year 2016. It should be noted that at the time of preparing the LSP 2007, the proposed Maitland to Minimbah Third Track project had not been earmarked for expansion. The LSP 2007 (p. 37) states that *"Due to the high levels of noise associated with rail lines, all land within 60m of the rail line will require individual acoustic assessment."* The recent exhibition of the proposed Maitland to Minimbah Third Track project (Department of Planning reference MP 09_0024) indicates that the rail corridor is to expand, and subsequently, the effects of noise and vibration are likely to increase as a result of this expansion. Noise and vibration impacts are likely for a significant amount of land within the investigation area, since land within the site directly adjoins the existing rail corridor and the NEH.

For the abovementioned reasons, Council proposes to retain a portion of the site within 500m of the rail corridor for rural purposes, pending further detailed investigations regarding noise and vibration, which are proposed to increase as a result of the expansion of the rail corridor. DECCW's publication *Assessing Vibration: A Technical Guide 2006* (p. 12) identifies that *"...Some studies have shown that annoyance from railway vibrations is inversely proportional to distance from railway tracks, with a rapid decrease in vibration disturbance as the distance increases from 25 to 150 metres and a slower rate of reduction over 200 metres, until no vibration disturbance is detected at 500 metres."* Given the potential for vibration, noise and emissions from rail movements to impact land within 500m of the rail corridor, land potentially affected by these impacts has been identified as warranting further investigation. Council has been forced to defer a decision on rezoning this portion of the site since the EA recently exhibited for the Third Track project does not include details of noise/vibration attenuation methods. 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 in a position to make an informed decision on the appropriate zoning for this area of the site, particularly when such a decision could ultimately permit residential dwellings in this area of the site and result in the sterilisation of residential zoned land. It is proposed that detailed environmental studies be undertaken to support the rezoning, with a particular focus on acoustic, vibration and air quality studies for land identified as *"Area of Affection – Further Investigation Required"* on the proposed zoning map (see **Appendix 1**).

As part of future precinct planning for the site, further detailed acoustic/vibration studies and modelling will be required. This is consistent with the recommendations made in the LSP 2007 (p. 17). The studies will need to address DECCW's guidelines relating to noise and vibration, with a particular focus on railway corridors and proximity to residential receivers. The noise levels set out in SEPP (Infrastructure) 2007 should be used to set maximum levels within the investigation area. Other standards which use varied methods should not be applied to raise the maximum sound levels higher. Additionally, the assessment should take into consideration the likely impacts of the Maitland to Minimbah Third Track project on existing and future development within the investigation area, as well as the likely impacts from traffic generated along the New England Highway. Any noise attenuation buffers/barriers or design controls that would be required for future dwellings within the investigation area should also be identified in the report. Reference should also be made to the noise and vibration assessment included as part of the Maitland to Minimbah Third Track project, given the proximity of the site to the existing rail corridor, and the inconsistencies

between the studies undertaken for the LSP 2007 and the recent EA for the Maitland to Minimbah Third 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.

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 Investigation Area 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 recently exhibited the *Maitland Integrated Land Use and Transport Study* 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 Investigation Area.

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 as part of DCP/Area Plan investigations. 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 DCP/DA stages of the project.

Flooding & Stormwater

The MUSS 2008 (p. 79) identifies that analysis of local overland flooding is required in the Lochinvar Investigation Area, 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 Investigation Area 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 a DCP/Area Plan for the site.

Geotechnical

The MUSS 2008 (p. 79) states that erosion and salinity are known issues along the watercourses within the investigation area, 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 a DCP/Area Plan 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 DCP/Area Plan 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 investigation area 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 a DCP/Area Plan for the Lochinvar Investigation Area.

Water & Wastewater Servicing

The MUSS 2008 states that the 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 Investigation 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 Investigation Area in respect of infrastructure expansion and capacities.

A letter stating that HWC can provide all necessary reticulated water and sewer infrastructure to the Lochinvar Investigation Area is provided as **Appendix 5**. It is understood from correspondence provided by HWC that the proponent has submitted a draft sewer servicing strategy for the Lochinvar Investigation Area, while a draft water servicing strategy is likely to be submitted to HWC in the near future. HWC state that the submission of the water servicing strategy has been delayed due to technical issues on the part of HWC, however the overarching requirements for water servicing have been discussed in detail according to HWC (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. HWC has assured Council in their correspondence that they do not object to the proposal to rezone the site for urban purposes.

Visual Impact Assessment

The MUSS 2008 (p. 77-78) identifies visual impact as an important issue for the Lochinvar Investigation Area, 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 Investigation Area. Further detailed consideration will be given to visual impact during preparation of a DCP/Area Plan for the site in the future.

Air Quality

The EA for the Maitland to Minimbah Third Track explains 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 Lochinvar Investigation Area is therefore a key sensitive receptor to be considered as part of this project. This issue (in conjunction with potential noise/vibration impacts) has influenced Council's decision to require additional studies for land within 500m of the rail corridor as part of the rezoning of the Lochinvar Investigation Area.

Given the potential for increased pollution within the investigation area 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 Investigation Area.

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 Investigation Area. 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 investigation area 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 investigation area, 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.

European Heritage

The LSP 2007 (p. 21) lists the current heritage items known to exist within the Lochinvar Investigation Area, 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 in preparation with DCP/area planning for the site, given the presence of known items of heritage significance located within the investigation area. 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 investigation area, 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 proposes to consult relevant public infrastructure authorities during the consultation period for this planning proposal. These authorities will include Energy Australia, Telstra and AGL. Given the strategic location of the Lochinvar Investigation Area, it is proposed that the NSW Roads and Traffic Authority will be consulted to determine the relevant state infrastructure contributions required as a result of the future development of the land. 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, HWC have provided a letter stating that all necessary reticulated water and sewer infrastructure can be provided to the Lochinvar Investigation Area (see

Appendix 5). It is understood from correspondence provided by HWC that the proponent has submitted a draft sewer servicing strategy for the Lochinvar Investigation Area, while a draft water servicing strategy is likely to be submitted to HWC in the near future. HWC state that the submission of the water servicing strategy has been delayed due to technical issues on the part of HWC, however the overarching requirements for water servicing have been discussed in detail according to HWC (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.

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 currently the subject of a Part 3A assessment by the Department of Planning (Reference MP 09_0024) for a third railway track. The project is known as the Maitland to Minimbah Third Track project and is likely to impact significantly on the potential developable area of the Lochinvar Investigation Area. Council forwarded a submission to the Department during the exhibition period for the project, which, amongst other issues, outlined the potential implications of the Third Track project on the Lochinvar Investigation Area. 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 Investigation Area. However, Council has recommended that the proponent maintain discussions with the Hunter 8 Alliance (the project managers) in order to ascertain how these matters are likely to be generated by the Third Track project, and thereby impact on the Lochinvar Investigation Area. Particular consideration will need to be given to noise and vibration attenuation methods.

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

Australian Rail & Track Corporation (ARTC)

The site is located directly adjoining the Main Northern Railway Line, with the complete southern boundary of the site straddling the rail corridor. ARTC, on behalf the Hunter 8 Alliance, is currently seeking approval for expansion of the existing rail corridor to accommodate a third railway track. This Part 3A project is known as the Maitland to Minimbah Third Track, which is currently being assessed by the Department of Planning (Reference MP 09_0024). Given the proximity to this rail infrastructure, and the potential for significant environmental impacts on future development within the Lochinvar Investigation Area, ARTC are to be consulted as part of the rezoning process.

Roads and Traffic Authority (RTA)

The presence of the NEH within the site, combined with the size of the investigation area and the potential lot yield, trigger the referral of the proposal to the RTA for comment. Given that preliminary traffic investigations were undertaken in association with the LSP 2007, a traffic study was not requested for submission with the rezoning proposal. Council acknowledges that more detailed traffic investigations are required as part of future precinct planning for the site. Referral to the RTA will provide an opportunity for comment regarding the level of investigation required for the rezoning (given the significant anticipated lot yield), and details to be provided regarding any state infrastructure contributions that are required as a result of the rezoning. The comments can then be used to assist with preparation of a DCP/Area Plan for the site, namely in regards to determining road networks, traffic management upgrades, and confirming pedestrian/cycleway routes.

Department of Environment, Climate Change and Water (incorporating the NSW Office of Water)

Preliminary flora and fauna information has been submitted with the planning proposal. Council is satisfied that flora and fauna issues can be addressed through the implementation of an appropriate zone over existing riparian corridors 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 not deemed to introduce any significant impacts on any flora or fauna that currently exists within the site. Regardless, DECCW are to be consulted in regards to identifying their concerns involving potential loss of vegetation, and matters relating to watercourses that traverse the site, associated with the rezoning of the site for urban purposes. DECCW are also to be consulted based on the noise/vibration/air quality impacts of the Third Track project, given that DECCW administer legislation at the State level concerning acceptable levels of noise, vibration and air quality relating to rail corridors and residential development.

NSW Rural Fire Service (RFS)

The subject site retains areas of vegetation that are mapped as bushfire prone. Given the size of the investigation area, combined with the Category 1 vegetation that is present within the site, it is considered appropriate that the RFS are notified of the intention to rezone the land. Referral of the proposal to the RFS, and a subsequent response to Council, will satisfy section 117 ministerial direction 4.4 – *Planning for Bushfire Protection*.

NSW Department of Planning – Heritage Branch

The NSW Heritage Branch will be consulted since there are heritage items of regional significance that exist within the site. Comments will be sought from the Heritage Branch to ascertain what is considered appropriate in regards to managing the interface between future urban development and these heritage items – which are listed under Schedule 2 of the MLEP 1993. These comments will be used to assist in precinct planning for the site, where the extent of development controls for protecting heritage items will be determined.

Energy Australia

The rezoning proposal shall be forwarded to Energy Australia for comment, in order to ensure that existing electricity infrastructure and services in the locality can be extended to the subject site.

Telstra

The rezoning proposal will be forwarded to Telstra in order to confirm that it is possible to provide telecommunications services to the site.

AGL

Given the size of the site and the likelihood of demand for domestic gas services, AGL are to be consulted to determine whether the site can be serviced by gas. While not being essential infrastructure, this may assist Council with preparing a DCP/Area Plan for the site, as well as future development staging within the site.

PART 4: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, this planning proposal must be approved prior to community consultation being undertaken by the local authority. Given that the site is a 'Proposed Urban Area' and a 'Major Release Site' identified in the LHRs 2006 (p. 12-13, 25), a Category 1 investigation area under the MUSS 2008 (p. 13), and that the Maitland to Minimbah Third Track project is proposed adjoining the site, Council deems that the planning proposal is not of low impact. The planning proposal should therefore be exhibited for a minimum of 28 days.

In accordance with Council's adopted *Community Engagement Strategy (March 2009)*, consultation on the proposed rezoning will be to inform and receive limited feedback from interested stakeholders. To engage the local community the following will be undertaken:

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

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

The consultation process, as outlined above does not prevent any additional consultation measures that may be determined appropriate as part of the 'Gateway' determination process.