

Chisholm Neighbourhood Centre and recreation facilities (indoor) permitted with development consent in the B1 zone

Proposal Title : Chisholm Neighbourhood Centre and recreation facilities (indoor) permitted with development consent in the B1 zone

Proposal Summary : The planning proposal (PP) would change the planning controls in the Maitland Local Environmental Plan 2011 (LEP) for the Chisholm centre by:

- expanding the land zoned B1 Local Centre;
- removing the height of buildings and minimum lot size controls over the expanded site; and
- applying a new floor space ratio of 0.3:1 over the expanded site.

The PP would also permit recreation facilities with development consent in the B1 Neighbourhood Centre zone of the LEP.

PP Number : PP_2016_MAITL_005_00 **Dop File No :** 16/14929

Proposal Details

Date Planning Proposal Received : 21-Nov-2016 **LGA covered :** Maitland

Region : Hunter **RPA :** Maitland City Council

State Electorate : MAITLAND **Section of the Act :** 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Settlers Boulevard

Suburb : Chisholm **City :** **Postcode :**

Land Parcel : Lot 3 DP 1220220

DoP Planning Officer Contact Details

Contact Name : Ben Holmes

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RPA Contact Details

Contact Name : Rob Corken

Contact Number : 0249349784

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Hunter Regional Plan 2036	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : **LEP TYPE**

The LEP type specified above is listed as 'spot rezoning'. However, it is also a 'policy' type LEP due to the change proposed to the LEP land use table for the B1 zone.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : The objectives are consistent with the Department's "Guide to preparing PPs". They are to amend the LEP in order to:

- facilitate the precinct plan for the Chisholm Neighbourhood Centre,
- reflect cadastral boundaries;
- ensure the development of the centre is consistent with previous Council resolutions; and
- correct a mapping error that applies to the centre.

The objectives do not refer to the recreation facilities (indoor) component of the PP. It should be updated to reflect this proposed change.

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

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

Comment : The explanation of provisions is consistent with the Department's "Guide to preparing PPs". It identifies the specific zone, lot size, FSR and height of buildings maps that would be amended. Council has included 'existing' and 'proposed' maps which demonstrate the

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intended changes.

In summary, the PP would:

- extend the B1 zone across the adjoining 0.3 ha of R1 zoned land, increasing the size of the B1 site from 3.9 ha to 4.2 ha;
- remove the 8m height limit that applies to part of the existing B1 zoned site so that no height limit applies;
- apply a floor space ratio of 0.3:1 across the 4.2 ha site (currently a 0.5:1 FSR applies to part of the existing B1 zoned site).

Council intends to allow heights to be determined through merit assessment as part of the development application process. It states that this is appropriate due to the variation in topography across the site.

The change in FSR would reduce the permitted floor space for development on the site such that it aligns with that originally envisaged for the centre when the B1 zone was first applied to the site. The FSR standard would limit the site to 12,600 sq.m which is similar to the 12,500 sq.m originally intended.

The Department does not raise issue with this approach. The PP considers different alternative options for achieving the same outcome however this approach is the simplest and most transparent. While the FSR could later be varied (LEP clause 4.6), Council states that its proposed DCP provisions (economic impact assessment) would require any DA variation to FSR to be adequately justified.

No reference is made to the LEP change which would see recreation facilities (indoor) permitted with development consent in the B1 zone. The PP should be updated to state this.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

Is the Director General's agreement required? Yes

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

d) Which SEPPs have the RPA identified? N/A

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

s117 direction 5.10 Implementation of Regional Plans has not been considered.

Have inconsistencies with items a), b) and d) being adequately justified? No

If No, explain :

Discussion regarding s117 direction inconsistency is provided in the "Consistency with the Strategic Planning Framework" section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

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Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has not nominated a time period for community consultation. As the PP would introduce a new policy position ie recreation facilities (indoor) in the B1 zone and this would affect multiple sites, a 28 day period is recommended.

Additional Director General's requirements

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

If Yes, reasons : **PLAN-MAKING DELEGATION**

Council has requested that it not be given delegation in this instance.

COMPLETION TIMEFRAME

Council's project plan indicates that it would take six months for Council to progress the PP to the point where it may request the Minister make the plan. Given this, a nine month completion timeframe is recommended.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Maitland LEP 2011 commenced in December 2011.

Assessment Criteria

Need for planning proposal :

Council suggests that the PP is needed in order to ensure that the centre would develop to a scale consistent with its resolution from 2010 when the land was originally rezoned to a business zone. At that time, the planning controls facilitated a local centre of up to 12,500 sq.m.

However, due to a mapping error introduced when the Maitland LEP 2011 commenced, coupled with the flexible zone boundary provisions of the LEP 2011 (clause 5.3), Council is of the view that a larger centre than desired could result under the existing controls. The PP would rectify this issue, bringing the scale of the centre back to what was originally envisaged.

The Department supports Council's intention to amend the LEP such that the floor space originally envisaged for the centre is restored. The addition of recreation facilities (indoor) as a permitted use in the B1 zone is also supported. It aligns with the objectives of the zone.

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Consistency with strategic planning framework :

HUNTER REGIONAL PLAN (HRP)

The HRP Direction 23 "Grow centres and corridors" seeks to concentrate growth in centres to support economic and population growth and a mix of uses (Action 23.1). It notes that centres form part of a network and that different centres perform different roles/ functions within that network.

The nearby centre of Thornton is identified as a centre of local significance and so the function and scale of the Chisholm Neighbourhood Centre should support the Thornton centre.

The PP notes concern that the Chisholm centre may compete with the Thornton Town Centre unless scale and uses are adequately considered. Council intends to do this by correcting the floor space anomaly and by putting in place a process for economic impacts to be assessed through the DA process.

In this context, the Department is satisfied that this component of the PP is consistent with the HRP. The changes Council is proposing are intended to maintain the current centres hierarchy in the Chisholm/ Thornton locality.

Notwithstanding, the concerns raised suggest Council should review its centres policy to ensure it remains up-to-date. This is particularly relevant in the Maitland LGA given the age of its centres policy (2010), the HRP focus on increasing dwelling density around centres, and the potential impacts of the Department's proposed draft Medium Density Complying Code. Council's proposed review of its Settlement Strategy (likely 2017) would inform this work. Advice to this effect may be included in the Gateway determination letter.

The intention to permit recreation facilities (indoor) with development consent in the B1 zone broadly aligns with HRP Direction 18 "Enhance access to recreational facilities and connect open spaces" and Direction 23. This component is considered consistent with the HRP.

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The LHRS is to be superseded by the HRP however for now it remains relevant due to s117 direction 5.1 being in place (soon to be repealed). The Strategy recognises the Thornton Town Centre as a higher order centre (town centre) to Chisholm. For the same reasons outlined above for the HRP, the Department is satisfied that the floor space component of the PP is consistent with the LHRS. The recreation facilities (indoor) component is also broadly consistent with centres objectives relating to strong vibrant centres and healthy communities.

MAITLAND COMMUNITY STRATEGIC PLAN (CSP)

Council states that the proposal supports the CSP although it does not detail how.

The CSP is a high level document which does not contain specific guidance relevant to this PP. However, the PP's intention to introduce recreation facilities (indoor) into the B1 zone broadly aligns with CSP outcomes about creating vibrant, mixed use centres.

MAITLAND URBAN SETTLEMENT STRATEGY (MUSS)

Council states that the PP is consistent with the MUSS but does not elaborate on how it is consistent.

The MUSS contains a centres hierarchy which sets out the function and scale of the various centres depending on their status in the hierarchy. The Chisholm centre is a local centre and the existing Thornton centre is a town centre in the MUSS.

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Neither centre fulfills the centre scale outlined in the MUSS, with the Chisholm centre likely to be substantially larger than a local centre and the Thornton centre being smaller than that envisaged for a town centre. The MUSS notes that the Chisholm centre should not impact on the Thornton centre.

It is understood that the MUSS is to be reviewed in 2017 and it would be appropriate for the centres guidance in the MUSS to be reviewed as part of that process.

MAITLAND ACTIVITY CENTRES AND EMPLOYMENT CLUSTERS STRATEGY (2010) (ACECS)

ACECS sets out the vision, hierarchy and growth objectives for Maitland's network of centres. Council does not refer to the ACECS in its PP.

Like the MUSS, it identifies the Chisholm centre as providing convenience shopping and supporting the existing Thornton town centre. It suggests that the centre should be substantially smaller (similar scale to Lorn, 3,600 sq.m) than that proposed by this PP.

This Strategy should be reviewed to ensure that it reflects the urban direction set by the next MUSS review, new census data and the settlement growth that has occurred since it was adopted.

As ACECS is Council's adopted policy and is relevant to this PP, Council should discuss the PP's consistency with this Strategy in the PP.

MAITLAND CENTRES STUDY (Hill PDA 2009, reviewed April 2016)

This study informed the ACECS and considers the function and scale of the various centres in the Maitland LGA. Among other matters, it looks at the existing and future retail floor space needs of the centres to 2031.

The study notes that the existing Thornton Town Centre has a floor space of 5,000 sq.m and projects an additional 5,000 sq.m may be required, and that the Chisholm centre may compete with it. It suggests a centre of 2,000-4,000 sq.m would be appropriate.

The April 2016 review re-iterated concerns about the potential for the Chisholm centre to affect the viability of the Thornton town centre. It notes that if developed to 12,500 sq.m, the local centre Chisholm would be double the size of the town centre at Thornton.

It suggests that future proposals for Chisholm need to be carefully evaluated to ensure both centres remain viable. The study suggests economic impacts be assessed for any development proposals for the Chisholm site.

While Council has not looked to reduce the size of the Chisholm centre so that it aligns with the floor space levels suggested by the 2009 study, it highlights the importance of Council reviewing its settlement and centres hierarchy to ensure that its centres framework is up-to-date.

STATE ENVIRONMENTAL PLANNING POLICY (SEPPs)

Council states that no SEPPs are relevant to this PP. The Department agrees with this assessment.

SECTION 117 DIRECTIONS

While Council has assessed the PP's consistency with the HRP, it has not referred to s117 direction 5.10 Implementation of Regional Plans. The PP should be updated to refer to this.

The PP is considered inconsistent with the following directions:

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1.1 Business and Industrial Zones - the PP is inconsistent with this direction because by expanding the B1 zoned area, a new employment area would be permitted but not in accordance with a strategy endorsed by the Secretary (subclause 4e).

The Department is satisfied that in reducing the FSR and expanding the B1 zone, Council is seeking to ensure that the business/ retail centre outcome originally envisaged when the land was rezoned would result. It is recommended that the Secretary agree that the PP's inconsistency with this direction is of minor significance (subclause 5d).

3.1 Residential Zones - the PP is inconsistent with this direction because by rezoning R1 zoned land to B1, the permissible density of residential on the land would be reduced (subclause 10b).

The expansion of the B1 zone would result in the loss of 3,000 sq.m of R1 zoned land (approximately six dwelling houses). As Council notes, under the existing planning controls the application of clause 5.3 "Flexible Zone Boundaries" could reduce the residential area due to the encroachment of B1 zoned uses. Given the potential for this to occur, and noting the small land area involved, the loss of residential is considered to be of minor significance. The Secretary should agree to the inconsistency accordingly (subclause 11d).

Environmental social
economic impacts :

Part of the PP seeks to reduce potential economic impacts on the existing Thornton Town Centre by correcting a mapping anomaly and the additional floor space allowed by LEP clause 5.3 by ensuring only 12,600 sq.m could be developed. Further, Council intends to require that potential economic impacts on the Thornton centre are considered as part of the DA process for development proposed for the Chisholm site. This should help Council to mitigate adverse impacts on the existing town centre such that the current centres hierarchy in the locality is maintained.

The component of the PP relating recreation facilities (indoor) is likely to have positive social benefits by enabling recreation/ leisure activities closer to home in local neighbourhood centres. It would potentially add to the diversity of activities on offer at these locations.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

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

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

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

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If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Request Letter.pdf	Proposal Covering Letter	Yes
Council Report.pdf	Proposal Covering Letter	Yes
Council Minutes.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Draft Precinct Plan.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 5.1 Implementation of Regional Strategies
 6.3 Site Specific Provisions

Additional Information : **This planning proposal should proceed subject to the following conditions:**

- 1. Prior to exhibition Council is to amend the planning proposal to refer to:**
 - (a) the recreation facilities (indoor) component in the Objectives and Explanation of Provisions sections;**
 - (b) section 117 Direction 5.10 Implementation of Regional Plans and include Council's assessment of consistency with that direction; and**
 - (c) Council's Activity Centres and Employment Clusters Strategy and detail how the Planning Proposal aligns with the desired outcomes of the strategy.**
- 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:**
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and**
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2016).**
- 3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.**
- 4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).**
- 5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.**

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Other matters:

The Secretary should agree that the PP's inconsistency with s117 directions 1.1 Business and Industrial Zones and 3.1 Residential Zones is of minor significance.

Plan-making delegation should not be given.

Council should be encouraged to review its Centres Policy to ensure it is up to date. This should be informed by the MUSS review.

Supporting Reasons :

Per this report.

Signature:



Printed Name:

K. O'Faherty

Date:

9-12-2016

