

Maitland LEP 2011 Amendment - Anambah Investigation Area

Proposal Title : **Maitland LEP 2011 Amendment - Anambah Investigation Area**

Proposal Summary : **To rezone approximately 480 hectares of land, currently zoned RU2 Rural Landscape, to facilitate the development of up to 3,000 lots, protection of environmentally sensitive land and provision of associated commercial, community, and recreational outcomes.**

PP Number : **PP_2012_MAITL_003_00** Dop File No : **12/09726**

Planning Team Recommendation

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

S.117 directions : **1.2 Rural Zones
1.5 Rural Lands
2.3 Heritage Conservation
3.1 Residential Zones
3.4 Integrating Land Use and Transport
3.5 Development Near Licensed Aerodromes
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements**

Additional Information : **It is recommended that:**

The Director General as delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act that an amendment to the Maitland Local Environmental Plan 2011 be undertaken to rezone land known as the Anambah Investigation Area to facilitate residential development, the protection of environmentally sensitive land and provision of associated commercial, community, and recreational outcomes.

- 1. That prior to exhibition, Council consider the use of a development control plan to provide the lot size controls for the urban release area as an alternative to, or in conjunction with, the minimum lot size map.**
- 2. That prior to exhibition, Council consider applying the B1 Neighbourhood Centre zone on the land identified on the endorsed structure plan as the site's commercial precinct.**
- 3. That prior to exhibition, Council consider the use of E4 Environmental Living zone for the portion of proposed R5 land that is flood prone.**
- 4. It is noted that Council requires a number of additional studies to be prepared prior to the rezoning proceeding, these include additional flora and fauna studies, contamination assessment, noise and vibration, heritage and traffic studies.**
- 5. That the Executive Director, as delegate of the Director General determine that the proposal's inconsistency with s117 direction 1.2 Rural Lands is justified under clause 5c because the proposal is consistent with Lower Hunter Regional Strategy, and inconsistency with 4.1 Acid Sulfate Soils is justified under clause 8b as of minor significance.**
- 6. Consistency with several other s117 Directions is not able to be demonstrated prior to exhibition, consistency with those outstanding s117 directions must be addressed prior to**

the proposal being finalised.

7. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

8. 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 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

9. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Rural Fire Service
- NSW Aboriginal Land Council
- NSW Department of Primary Industries (Minerals and Petroleum)
- NSW Department of Primary Industries (Office of Water)
- Hunter Water Corporation
- Office of Environment and Heritage
- Transport For NSW - Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

10. 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).

11. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The site has been identified for urban development at both the regional and local level since 2006 and has the potential to deliver housing on ground within a short timeframe. Although the submitted proposal requires amendment to achieve the best outcome in an effective and timely manner, the information to facilitate this amendment is either available now or expected to be available soon. This had not been available to Council when assessing the proposal and making their resolution to proceed, therefore it did not form part of the submitted proposal. These matters may now be considered in response to Gateway conditions and should not result in further delays to the proposal.

These matters are;

1. The submitted planning proposal does not apply a commercial zone on the neighbourhood centre, identified through the structure plan and consistent with Council's Activity Centres Strategy, because at the time of Council's resolution there was insufficient information to determine the boundary of this site. This information is now available and Council should consider applying the B1 Neighbourhood Centre zone on the land identified on the endorsed structure plan as the site's commercial precinct

2. The submitted planning proposal sets a standard 450m² minimum lot size across all General Residential land and 20,000m² minimum lot size on the Large Lot Residential. This does not reflect the need for large lot's adjoining the existing Windella Estate, nor the smaller lots which Stockland wishes to establish to supply the affordable market. An alternative approach would be to establish lot size via a development control plan which is currently being drafted. When finalised Council should consider the use of the development control plan to provide the lot size controls for the urban release area as an

alternative to, or in conjunction with, the minimum lot size map.

3. The submitted planning proposal applies a R5 Large Lot Residential zone to land in the south east corner that is flood prone. This is inconsistent with s117 direction 4.3 and with Council's policy as well as inconsistent with the approach taken with other proposals in the area and is likely to establish a problematic precedent. An alternative zone, E4 Environmental Living, would allow a range of land uses more sensitive to the flooding issue. Council should consider the use of E4 Environmental Living zone for the portion of proposed R5 land that is flood prone

It is understood that these changes are substantial and therefore a revised planning proposal will be reported back to council prior to exhibition. This is expected to occur once a draft Development Control Plan is available and is likely to be in October 2012.

Panel Recommendation

Recommendation Date : 21-Jun-2012

Gateway Recommendation : Passed with Conditions

Panel

The Planning Proposal should proceed subject to the following conditions:

Recommendation :

1. Prior to public exhibition, Council is to consider applying the B1 Neighbourhood Centre zone to land identified on the endorsed structure plan as the site's commercial precinct.

2. Prior to public exhibition, Council is to consider the use of E4 Environmental Living zone for the portion of the proposed R5 Large Lot Residential land that is flood prone. Council is also to ensure that inconsistencies with S117 Direction 4.3 Flood Prone Land are resolved prior to finalisation of the planning proposal.

3. Prior to public exhibition, Council is to consider the use of a development control plan to provide the lot size controls for the urban release area as an alternative to, or in conjunction with, the minimum lot size map. Council should consult the Department's Regional Office to progress this aspect of the planning proposal.

4. Council is to amend the planning proposal accordingly, to reflect the outcomes of the above Conditions and provide a copy to the Department's Regional Team.

5. It is noted that a number of detailed studies are proposed to be undertaken for the site to address additional issues that have been raised, including matters related to flora and fauna, contamination, noise and vibration, heritage and traffic and transport. Council needs to ensure that the planning proposal is amended to reflect the outcome of the studies prior to finalisation.

6. 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 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Rural Fire Service
- NSW Aboriginal Land Council
- NSW Department of Primary Industries (Minerals and Petroleum)
- NSW Department of Primary Industries (Office of Water)
- Hunter Water Corporation
- Office of Environment and Heritage
- Transport for NSW – Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

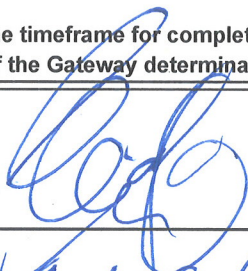
8. Further to Condition 7 above, it is noted that Council has undertaken preliminary consultation with the Department of Primary Industries regarding the nearby quarry. Council is to carry out further consultation during the exhibition process to confirm that the proposal does not inhibit the extraction of State or regionally significant materials.

9. Further to Condition 7 above, Council is to consult with the Commissioner of the NSW Rural Fire Service, prior to the commencement of community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department' for finalisation.

10. 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).

11. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Signature:



Printed Name:

Neil McGaffin

Date:

3.7.12